

# TREASON on TRIAL

European  
History



Gary Parker Schoales



Re-creating Six Compelling Cases from European History

# Treason on Trial

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Re-creating Six Compelling Cases from European History

By Gary Parker Schoales



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# Standards

	Social Studies Standards 9–12 Benchmark 1-C World	Common Core State Standards
Chapter 1: The Trial of Colonel Daniel Axtell	Explain and analyze revolutions (e.g., democratic, scientific, technological, social) as they evolved throughout the enlightenment and their enduring effects on political, economic and cultural institutions, to include: events and ideas that led to parliamentary government (English civil war, glorious revolution)	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 4
Chapter 2: The Trial of Louis Capet	Explain and analyze revolutions (e.g., democratic, scientific, technological, social) as they evolved throughout the enlightenment and their enduring effects on political, economic and cultural institutions, to include: enlightenment philosophies used to support events leading to American and French revolutions	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
Chapter 3: The Trial of Olympe de Gouges	Explain and analyze revolutions (e.g., democratic, scientific, technological, social) as they evolved throughout the enlightenment and their enduring effects on political, economic and cultural institutions, to include: enlightenment philosophies used to support events leading to American and French revolutions Analyze the pattern of historical change as evidenced by the industrial revolution, to include: status and roles of women and minorities	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
Chapter 4: The Trial of Alfred Dreyfus	Analyze and evaluate the impact of 19th century imperialism from varied perspectives, to include: nationalism (e.g., competition and conflict between European nations for raw materials and markets, acquisition of colonies in Africa and Asia, impact on indigenous populations)	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
Chapter 5: The Trial of Roger Casement	Analyze and evaluate the causes, events and effects of World War I, to include: rise of nationalism (e.g., unification of Germany, Otto Von Bismarck's leadership)	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
Chapter 6: The Trial of Robert Brasillach	Analyze and evaluate international developments following World War II, 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 9, Standard 2



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## ● Introduction ●

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This is a book about treason, one of the most significant but controversial crimes in European history. In Europe, in contrast to America, it was not always necessary to prove an overt treasonous act. Constructive treason, the mere imagining, organizing, or conspiring a treasonous action, was sufficient for someone to be considered a traitor.

The book begins with the trial of Colonel Daniel Axtell, a twenty-seven-year-old captain in the parliamentary army in 1649 during the English Civil War. He was in command of the soldiers who were charged with guarding King Charles I during his trial and subsequent execution in 1660. During the Restoration, under Charles II, Axtell was arrested and arraigned for high treason because of his actions during the king's trial and beheading. The next trial is that of Louis Capet (formerly King Louis XVI) held in the French National Convention with over six hundred legislators deciding whether to send him to the guillotine. Shortly after this trial and Louis's execution, Olympe de Gouges, a French feminist writer, was placed on trial before a revolutionary tribunal who accused her of treason. In her most famous work, *Declaration of the Rights of Woman and the Female Citizen*, published in 1791, she issued a direct challenge to male authority about female inequality.

The trial of Captain Alfred Dreyfus, a Jewish artillery officer in the French army, began on December 19, 1894, at the Cherche-Midi prison in Paris and lasted for four days. It became the most celebrated trial in French history since that of Joan d'Arc. It resulted in the nation being essentially split between those who believed he had been unfairly convicted, Dreyfusards, and those who supported his conviction, anti-Dreyfusards. In 1916, Roger Casement, one of the most mysterious figures in the long history of the troubles between Britain and Ireland, was placed on trial for high treason in England for attempting to form an Irish brigade to fight with the Germans against England during World War I. He was also involved in the Easter Rising in Ireland. Admirers called him a flawed hero and a martyr to Irish freedom. In 1945, Robert Brasillach, one of France's best-known literary figures, was tried and shot for his treasonous support of French fascism under the Vichy regime in occupied France. His execution was part of what would become known as the Purge.

What do students learn and gain from these active-learning lessons? Since they require personal involvement, students are forced to think on their feet, question their own responses to historical situations, and consider new ways of thinking. Students who are intellectually, emotionally, and physically engaged have greater retention.

Active-learning lessons like these trials challenge students by allowing them to:

1. Practice general skills including research and writing
2. Practice cooperative learning
3. Develop problem-solving skills
4. Engage in synthesizing skills
5. Develop empathic skills

It is always important to set aside adequate class time, both for the actual activity and for discussion and debriefing. Note that for teachers with more limited time there is a scripted version provided for each trial. Nothing is more frustrating for students than to get wrapped up in an activity and not have enough time to complete it and talk about what happened. Without strong teacher leadership to help students extract learning from the activity, it just becomes a token attempt at active learning—perhaps a fun event, but not educationally sound. Thus, the postactivity discussion and debriefing may be the only time students have to truly consolidate their experiences. Debriefing allows students to reflect on their participation in the activity and on how well they achieved the activity's objectives. It allows time to reflect on how the questions and issues raised in the activity apply to contemporary situations. It also gives teachers time to reiterate what they hoped to achieve, and it provides helpful feedback to students for future activities.

I would venture to guess that Daniel Axtell would have preferred avoiding the horrible fate of being hanged, disemboweled, and quartered. I don't really think that either Louis Capet or Olympe de Gouges relished the thought of facing the guillotine. Roger Casement undoubtedly would have preferred drinking pints of Guinness in an Irish pub, rather than facing an English hangman. I doubt Alfred Dreyfus enjoyed one minute of his years on Devil's Island. Robert Brasillach probably viewed himself as a heroic literary figure, but I would guess that did not include facing a French firing squad.

That being said, their trials and ultimate fates raised important issues that had lasting repercussions and caused significant changes:

- When is it appropriate to use a military tribunal instead of a civilian court?
- What role does the media play in influencing the outcome of a controversial trial?
- Can a monarch or leader be held responsible for the actions of his or her subjects?
- Which is more important: the letter of the law or the spirit of the law?
- Is vengeance an appropriate motive for placing a person on trial?

- Is it fitting to apply the concept of constructive treason?
- Why do we ascribe so much importance to the fate of famous people?
- Should a person who is clearly guilty escape their fate or be condemned on a technicality of the law?
- Should a law framed hundreds of years ago still be applied today?
- Is it appropriate to make promises to witnesses in order to induce testimony?
- Should every alleged plot, however ludicrous, be considered treason?
- Is merely imagining a crime like treason enough to constitute guilt?
- What constitutes a fair and impartial trial?
- What is the meaning of free speech?

### **General Tips for Effectively Running These Lessons**

1. Try to match roles to student personalities and academic strengths. For example, 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. Also, if you are doing the role-play version of the trial, it is a good idea to let the student attorneys read the scripted version so they have a better idea of how to organize the case.
2. You can limit the length of the trials by omitting roles or by setting speaking time limits.
3. If you feel that your students are not adept at being the authority figure in the classroom, I recommend that you assume the role of the primary judge or the head of the military commission in each of the trials.
4. Make signs or labels to put on the desks or tables indicating where the participants should sit.
5. Have witnesses write their historical name on the board before speaking.
6. When presenting, allow students to use index cards, a computer (or other device), and/or permit them to consult their research materials.
7. If a student seems flustered, stressed, or anxious when giving a speech or testimony, allow them to stop and begin again without any academic penalty.
8. Secretly prime a student to create an “incident” during the activity. For example, during the trial of Colonel Axtell you might have a student witness stand and shout “You encouraged your men to kill our beloved king—I hope you are hanged, drawn, and quartered!” Students really enjoy this.
9. Consider allowing students to make costumes appropriate to the time. It adds to a sense of realism.

10. Make sure the trial fits within the overall goals for your course.
11. Note that many of the roles are those of very obscure characters, so students will probably not be able to find any additional information on them. Have these students concentrate on the general background of the times.
12. If class time is an issue, it is highly recommended that you use the scripted version of the trial. Remember that postactivity discussion and analysis is every bit as important as the activity itself. Plan class periods with plenty of time to spare for discussion and debriefing.
13. If you are using a jury in the role-play version, make every effort to keep jurors unaware of the facts of the case before they are given by witnesses.
14. Debrief yourself after the simulation trial and make notes about what went well and what may need to be changed the next time you do the activity.

## Research Suggestions

1. There are four major sources from which researchers collect historical data: archival data (primary sources), secondary sources, running records, and oral recollections. Primary sources are the bread and butter for professional historians. However, the internet has opened up a whole new world for historical research, making many primary sources available to students who do not have ready access to a well-stocked library.
2. Encourage your students to try to use both primary and secondary sources in developing their roles for the activities.
3. Certain roles may be quite challenging to research. In these cases, students should concentrate their research primarily on the overall strategy of either the defense or the prosecution in each case.
4. It is virtually impossible to prevent students from using Wikipedia and other online encyclopedias as a starting point for their research. It is important that you stress the need, whenever possible, to verify information through multiple sources.
5. For each lesson, a list of books and, in some cases, online sources are provided that should prove useful for students in preparing their research for participation in these trials.
6. Make sure students cite all their sources. I favor the-simpler-the-better method: author, title, city of publication, publisher, copyright, and page number(s). Giving a link for a website generally works well for citing online information.

## Evaluation

There are a number of ways to evaluate student achievement. I would avoid putting the majority of the weight on actual participation during the trials. It rewards gregarious students at the expense of the more reticent. Instead, I would suggest making it one of many factors that define your assessment. How well did they research and prepare their role? How effective were they working within their group? How well did they participate in the discussions, debriefing, and any Extension Activities? Have students write an analysis of the events and the outcome of the trial from the perspective of his or her role.

Overall, these trials are designed to inspire enjoyment in learning history, so I would be very careful about overemphasis on evaluation. The last thing you want is a group of students striving to get an "A" instead of working cooperatively to have an enjoyable and exciting activity.

Here are the aspects that you might decide to assess:

- **Listening skills:** How attentive was the student during all aspects of the trial?
- **Questioning skills:** Did the student ask relevant questions (especially during the debriefing and discussion phase)?
- **Research and preparation:** How well did the student research and prepare?
- **Participation:** How well did the student actually perform? Note that this may be assessed for the quieter students by evaluating their coaching or assisting of other students.
- **Coordination:** How well did the student work within their assigned group?
- **Other:** Effective document analysis, completion of one of the Extension Activities, etc.

Designing an evaluation matrix can be useful. Here is a sample:

Name \_\_\_\_\_ Simulation \_\_\_\_\_

	Exceptional	Very Good	Good	Needs Improvement
Listening				
Questioning				
Research				
Participation				
Other				

Teacher remarks:

**Grade** \_\_\_\_\_ (optional)

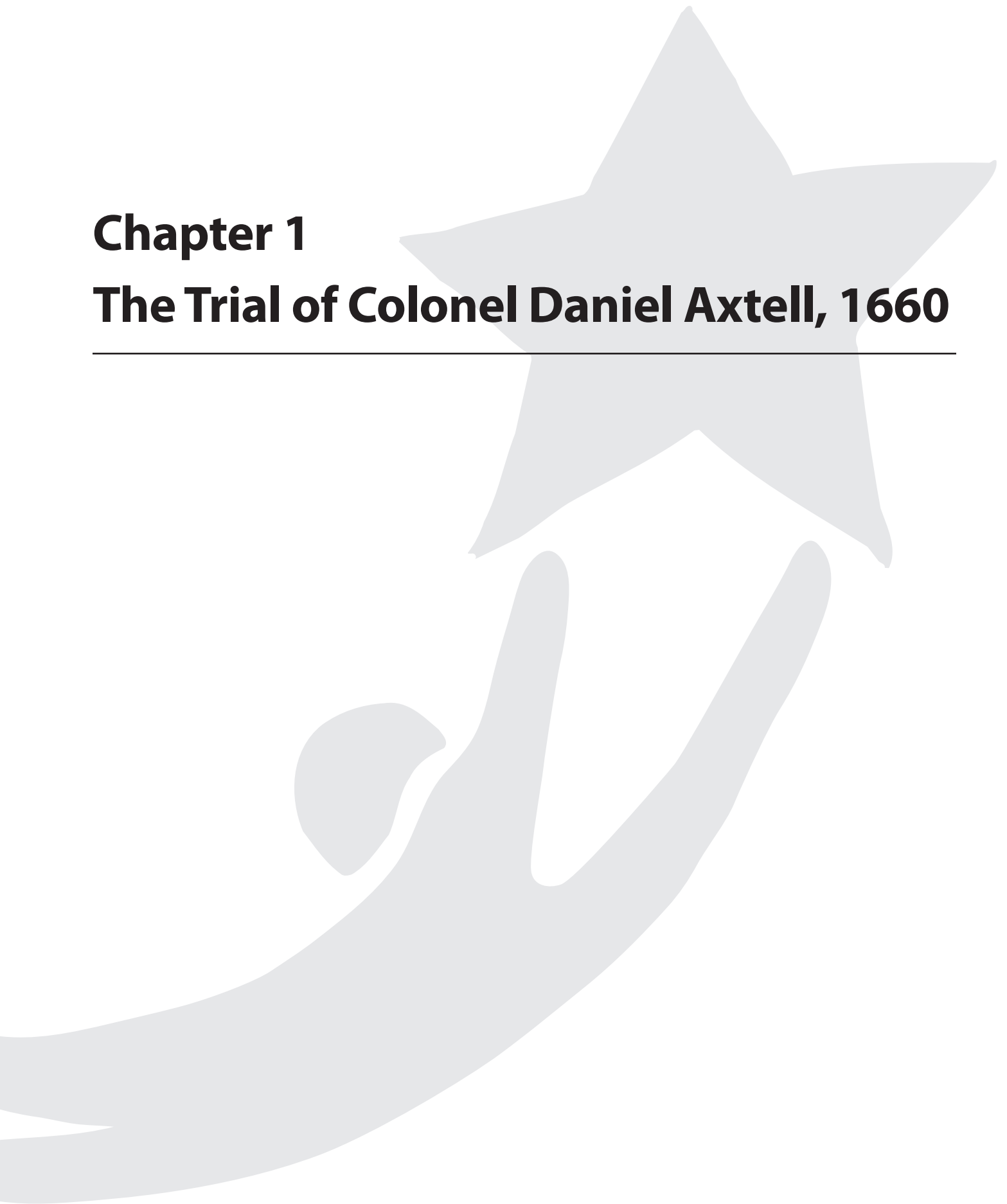




# **Chapter 1**

## **The Trial of Colonel Daniel Axtell, 1660**

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## ● Introduction ●

Daniel Axtell was a twenty-seven-year-old captain in the parliamentary army in 1649, during the English Civil War. He was in command of the soldiers who were charged with guarding King Charles I during his trial and subsequent execution. During the restoration, under Charles II, he was arrested and arraigned for high treason because of his actions during the king's trial and beheading.

### **Objectives**

1. Students will understand why Charles I was tried and executed.
2. Students will understand why, during the Restoration, Charles II felt it necessary to try and condemn all those individuals associated with the death of Charles I.
3. Students will evaluate the use of "just following orders" as a defense.

## Lesson Plan

### Trial Procedure

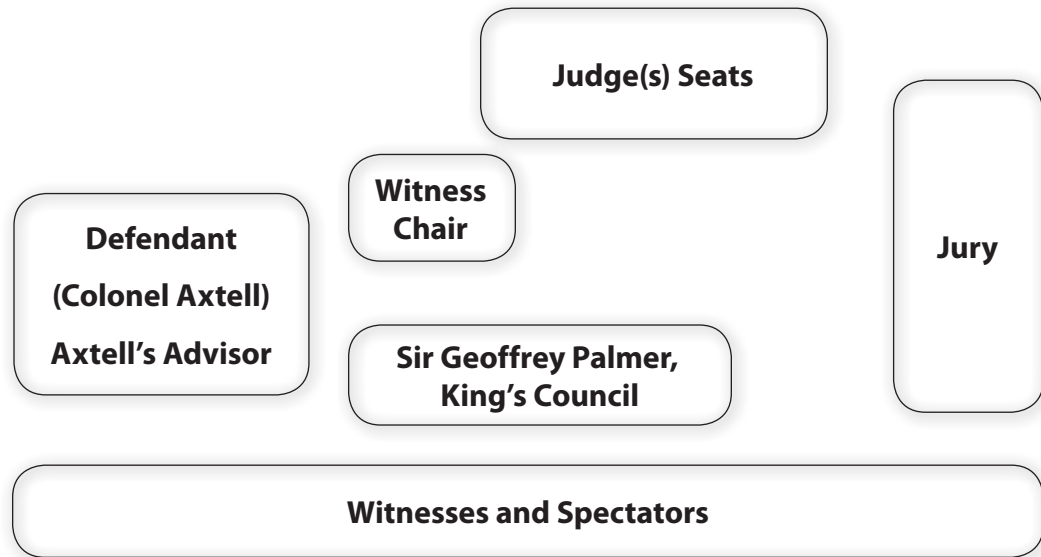
1. Classroom should be set up as a courtroom (see Diagram).
2. Jury, attorneys, witnesses, and any courtroom spectators should be seated.
3. The four judges (Lord Chief Baron, Lord Hollis, Lord Mallet, and Lord Annesly) enter and the court clerk instructs everyone in the courtroom to "rise."
4. Sir Orlando Bridgeman, Lord Chief Baron, then "charges the jury" with their responsibilities.
5. Sir Orlando Bridgeman, Lord Chief Baron, then instructs the court clerk to read the charges against the defendant, Colonel Axtell, and asks for a plea.
6. Colonel Axtell pleads not guilty, and the trial proceeds according to the following schedule:
  - a. Opening remarks by the prosecutor, Sir Geoffrey Palmer, King's Council
  - b. Direct testimony by the prosecution witnesses (note that the defendant, Colonel Axtell, does not have an attorney, but he may question the witnesses)
  - c. Defense testimony and questioning of the defendant, Colonel Axtell
  - d. Summary remarks by Sir Geoffrey Palmer, King's Council
  - e. Jury retires to deliberate
  - f. Jury returns to the court and Lord Chief Baron asks them for their verdict
  - g. If Colonel Axtell is declared guilty, then Lord Chief Baron should sentence him to be hanged, drawn, and quartered



#### Teaching Tip

Secretly prime a student to rise at some point in the trial and shout, "Axtell, I hope to see you drawn and quartered for your treason!"

### Diagram of Courtroom Seating



### Notes for the Teacher

1. Read and discuss the Background Essay with students. Tell students that they may use this information during the trial.
2. Assign students specific roles. Note that the roles of Lord Chief Baron, Colonel Axtell, and Sir Geoffrey Palmer, King's Council, are the most demanding. Unless you have a very capable student, it is advisable that the teacher assume the role of Lord Chief Baron.
3. Give students the remainder of the class time to prepare their roles.
4. The four judges and the clerk should meet and discuss their roles and how they plan to run the trial.
5. Sir Jeffrey Palmer, King's Council (the prosecutor) should meet with and prepare his witnesses for testimony.
6. Colonel Axtell and his advisor (a nonhistorical role) should meet and plan his defense. Note that during the trial, Lord Chief Baron (the lead judge) should allow Axtell's advisor to assist him with his testimony.

### Suggested Schedule (role play)

#### Day One:

1. Read and discuss the Background Essay.
2. Assign roles and allow the remainder of the class time to begin preparing for the trial.



**Day Two:** Trial.

**Day Three:** Debrief using Discussion Questions.

**Day Four:** Extension Activities.

### **Suggested Schedule (scripted version)**

**Day One:** Read the Background Essay. Assign speaking parts and read the scripted version of the trial. Note that only one judge (Sir Orlando Bridgeman) speaks for the court, and there is also a narrator and a foreman of the jury that have small speaking parts. After reading the scripted trial, conduct the debriefing using the Discussion Questions.

**Day Two:** Extension Activities.

## The Trial of Colonel Daniel Axtell, 1660

### Lesson Plan

#### Roles Grid

Role	Historical Character	Student Name
<b>Judges</b>	Sir Orlando Bridgeman, Lord Chief Baron	
	Lord Hollis	
	Lord Mallet	
	Lord Annesly	
<b>Clerk of the Crown</b>		
<b>Defendant</b>	Colonel Daniel Axtell	
	Axtell's Advisor	
<b>Prosecutor</b>	Sir Geoffrey Palmer, King's Council	
<b>Witnesses</b>	Holland Sympson	
	Colonel Hercules Huncks	
	Sir Purbach Temple	
	Griffith Bodurdoe	
	Richard Young	
	John Jeonar	
	Samuel Burden	
	Edward Cook	
	Thomas Bide	
	Thomas Snow	
	Henry Marsh	
	Thomas Bishop	
<b>Jury</b>	John Nicoll	
	Samuel Harris	
	George Plucknet	
	William Maynerd	
	Thomas Usman	
	William Dod	
	Robert Sheppard	
	Charles Pitfield	

# Background Essay

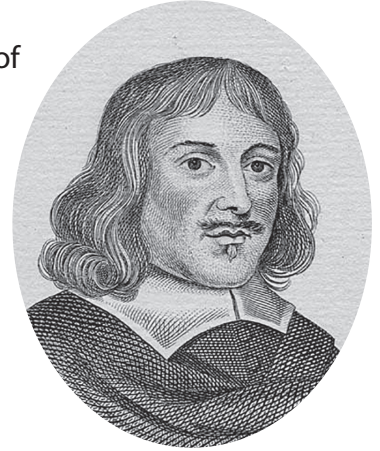
King Charles I, like all the kings and queens that preceded him, was an absolute monarch who believed in rule by “divine right.” According to this axiom, the king derived his authority directly from God and so could not be held accountable by any earthly authority. Charles believed he could indiscriminately levy taxes on his people to support his royal lifestyle and wars. The English parliament objected and forced him, under threat of withholding funds, to sign the Petition of Right whereby he promised not to levy direct taxes without the consent of Parliament and not to imprison anyone without due cause. However, in 1629 Charles dismissed Parliament, ignored this petition, and imposed heavy restrictions on the Puritans, a religious sect that wanted to “purify” the Church of England by eliminating certain Catholic rituals.

Charles I was an ineffectual ruler whose misguided policies led to the English Civil War that began in 1642. The king was supported by the upper classes, the Anglican clergy, and most Catholics. The king’s opponents (called Roundheads because of their distinctive steel helmets), led by the militant Puritan Oliver Cromwell, soundly defeated Charles’s “Cavaliers,” first in 1645 at the Battle of Naseby and later in 1648 at Oxford. The Puritan-dominated members of Parliament were now faced with a difficult problem: what to do with Charles I? As long as he remained alive, he remained a threat to the primacy of Parliament.

On New Year’s Day, 1649, the half-empty Commons, the so-called Rump Parliament, voted that King Charles had committed treason by levying war upon Parliament. They alleged that Charles had contrived a “wicked design totally to subvert the ancient and fundamental laws and liberties of the nation and . . . had prosecuted a

war for that purpose.”<sup>1</sup>

A few days later, a court of 135 commissioners was set up as a special tribunal to try the king. John Bradshaw was nominated as the presiding judge.<sup>2</sup> However, of those named to the commission, only fifty-two chose to serve, with Oliver Cromwell as their acknowledged leader. The indictment against Charles I described him as a tyrant, a traitor, a murderer, and a public and implacable enemy of the Commonwealth of England. He was said to have abused his trust as governor by erecting a tyrannical power and making war against his own people. When one Parliament member dared to question the authority of Parliament to put Charles on trial, Cromwell responded, “I will tell you, we will cut off his head with the crown upon it!”<sup>3</sup> When Bradshaw called on Charles to answer this charge “in the behalf of the Commons assembled in Parliament and the good people of England,” the incorrigible Lady Fairfax reputedly called out, “It’s a lie, not half, nor a quarter of the people. Oliver Cromwell is the traitor.”<sup>4</sup> Colonel Axtell, in charge of the troops in the hall, allegedly lost control and ordered his soldiers to fire into the gallery.



Daniel Axtell

1 Peter Ackroyd, *Rebellion: The History of England From James I to the Glorious Revolution* (New York: St. Martin's, 2014), 306.

2 John Bradshaw was an English attorney who accepted the position to serve as the king's judge after several other more notable attorneys and judges refused.

3 Ackroyd, 306.

4 Lady Fairfax was the wife of Sir Thomas Fairfax, who was the second in command of the parliamentary army that defeated the king's forces at the Battle of Naseby. He refused to attend the king's trial, but his wife did, and she clearly carried his sentiments regarding the king's guilt into the courtroom.

However, the outspoken lady was removed from the court before any shots could be fired.<sup>5</sup>

During his trial, Charles repeatedly challenged the right of Parliament to try him. He argued that as king, he was answerable only to God, not the people. His accusers in Parliament countered his objections by saying that when he took his coronation oath, he had promised to uphold the liberties of the people of England, and that he had broken that covenant when he waged war against Parliament. Now the people had the right to punish him for that action. Despite Charles's repeated attempts to challenge the legitimacy of the court, he was condemned to death and beheaded. The fifty-two men who found Charles guilty were a varied lot. What they shared was the belief that Charles had a view of monarchy at odds with the spirit of the age, pursuing autocratic decision-making and promoting religious policies that stifled freedom of conscience. After disposing of the king, Oliver Cromwell and the Puritans set up a republic dominated by Parliament called the Commonwealth. Cromwell soon discarded this form of government and became a military dictator under a new form of government called the Protectorate. Cromwell died in 1658. The confusion following Cromwell's death led Parliament to reinstate the monarchy, with the eldest son of Charles I on the throne. This return of monarchy under Charles II is known as the Restoration.

Colonel Daniel Axtell was not charged with anything he did as a commissioned officer in the parliamentary army commanded by Cromwell, only for those actions he took on his own, including encouraging the men under his command to call for "justice, justice" during the king's trial and during the king's beheading, ordering them to shout "execution, execution."<sup>6</sup> Also, when the charges against the king were read in court, there was a challenge to its validity that came from the spectator's gallery. Colonel Axtell, in charge of the troops in the hall, allegedly pointed to the offending box and shouted at his men, "Down with the whores! Shoot them!" It was fortunate that the soldiers disobeyed because they would have undoubtedly shot Lady Fairfax, the wife of the army's lord general, who was guilty of the interruption.<sup>7</sup> Finally, Colonel Axtell was accused, like all of those associated with the king's trial and death, of high treason by "compassing and imagining" the death of the king. In the context of the times, "compassing" meant to arrange or measure and "imagining" meant creating the idea of something or some suggested course of action.

Colonel Axtell believed that he was merely a simple soldier following orders.

You will now have a chance to either role-play or read a scripted version of this dramatic trial.

5 Hilaire Belloc, *Charles the First—King of England* (London: J. B. Lippincott, 1933), 360–1.

6 Belloc, 360.

7 Charles Spencer, *Killers of the King: The Men Who Dared to Execute Charles I* (New York: Bloomsbury, 2014).

# Roles

## Judge: Sir Orlando Bridgeman, Lord Chief Baron

You are the chief judge in this case and have just recently been given the exalted and prestigious position of Lord Chief Baron of His Majesty's High Court of Exchequer.

You should review Court procedure with the court clerk, who is there to assist you in running the court and maintaining order. At the beginning of the trial, you will be outside of the courtroom. When everyone is in their assigned place, you and the other three judges will enter. The court clerk will say, "All rise." When you have assumed your position, the court clerk will say, "Be seated."

If this is a trial with a jury, then you will charge the jury by saying, "Members of the jury, the defendant at the bar is accused of violating the Treason Act 1351, provisions of which include imagining the death of the king, levying war against the king in his realm, and adhering to the king's enemies. You should obey all my instructions during the trial, and you should render a fair and just verdict based on the presentation of the evidence."

At the beginning of the trial, you will ask the king's coroner to read the charges against the defendant and then ask for his plea: guilty or not guilty.

You will then ask the prosecutor, Sir Geoffrey Palmer, King's Council, to make any opening remarks regarding the guilt of the defendant.

You will then ask Sir Geoffrey Palmer if he would like to present any witnesses. Each time a witness is called, you should ask the court clerk to swear them in. In addition to questions from Sir Geoffrey Palmer, you will also allow the defendant, Colonel Axtell, and his advisor to question the witness or make statements regarding the witness's testimony.

When the prosecution has questioned all of their witnesses, you will allow the defendant, Colonel Axtell, to present his defense. You will also allow questions from Sir Geoffrey Palmer.

You should then instruct the jury to retire and deliberate. If you are deciding the case without a jury, then all the judges (lords) must agree on a verdict.

If the defendant is found not guilty, he will be immediately freed. If he is found guilty, then you will sentence him to be hanged, drawn, and quartered.

## Judges: Lord Hollis, Lord Mallet, Lord Annesly

At the beginning of the trial, you will be outside of the courtroom. When everyone is in their assigned place, you and the other three judges will enter. The court clerk will say, "All rise" when you enter, and "Be seated" when you have assumed your position.

You will assist Sir Orlando Bridgeman, Lord Chief Baron, in running the trial. He will review the trial procedure with you.

If you are deciding the case without a jury, then you and the other three judges should take some time to reflect on your decision. You must unanimously agree on a verdict.

If the defendant is found not guilty, he will be immediately freed. If he is found guilty, then Sir Orlando Bridgeman, Lord Chief Baron, will sentence him to be hanged, drawn, and quartered.



**Clerk of the Crown**

You are the court officer who will be expected to perform several functions during the trial, including reading the indictment, taking the prisoner's plea, swearing in the witnesses, and carrying out any other orders delivered by the presiding judges. You should meet with Sir Orlando Bridgeman, Lord Chief Baron, and he will instruct you on any other duties he would like you to perform.

**Defendant: Colonel Daniel Axtell**

You were an officer in the parliamentary army commanded by General Oliver Cromwell and other leaders of the New Model Army, during the English Civil War. Following the king's trial and execution, you served the army fighting in Ireland where you were accused of ordering prisoners of war be summarily executed. You are on trial, accused of high treason, for your participation in the trial and execution of King Charles I. You are not charged with your actions against the king's army while you were serving in the military. You are specifically accused of "compassing and imagining the death of the king" by encouraging your soldiers during the trial, and later the king's beheading, to shout "justice, justice" and "execution, execution." It will also be alleged that you ordered your soldiers to shoot one of the spectators in the gallery during the king's trial.

You should use a legal defense proposed to you by John Cook while you were confined in Newgate Prison awaiting your trial. You will tell the judges and jury that your case is different from the other men accused of participating in the trial and execution of King Charles I. You will say that the men who signed the death warrant against the king were being tried for their actions, while you are only accused of using words, or urging others, like the soldiers under your command, to say things against the late king. Further, you will also say that you merely acted under the authority of Parliament. Following this line of reasoning, you will then insist that the members of the House of Commons, who are supposedly the representatives of the whole nation, are also guilty of treason. Therefore, it will follow that all the people of England, who selected them, are guilty too. You will then ask, "Where will a jury be found to try a case where everyone in England is guilty?"

Finally, you will present yourself as a good soldier, who had dutifully obeyed the orders of his superiors. Your presence at Westminster Hall, during Charles's trial, was not voluntary. You were ordered to be there, and if that obedience to Parliament makes you guilty, then you believe that there are a number of other officers, like the Earl of Manchester, who should also be placed on trial.

**Colonel Axtell's Advisor**

You are a nonhistorical, fictional character who will serve as Colonel Axtell's lawyer. He did not have an attorney assisting him in the real trial. You will be permitted to assist him in his defense. You should meet with him and review points you wish to make, especially his belief that every action he took was merely following the orders of his superiors. Although it is advisable that Colonel Axtell do most of the talking, if necessary, you should be prepared to speak on his behalf.

**Prosecutor: Sir Geoffrey Palmer, King's Council**

You are the prosecutor in this case. As an attorney, you will be expected to form a theory of the case. Essentially, what happened? You will then organize your witnesses to back up this theory with their direct testimony. You should have each witness write out specific questions you can ask them on the witness stand that will help them remember what they have to say about the case. In your opening remarks, you should describe for the court your theory of the case and what you intend to prove. You should also prepare any questions that you would like to ask the defendant. It is hard to be an attorney. That is why real lawyers go to law school after college. Do your best!

You should specifically focus on the following points:

- Colonel Axtell is a traitor who violated the Treason Act of Edward III and should be punished for his actions.
- He ordered his soldiers to shout "justice, justice" during the king's trial.
- During the king's trial, the defendant ordered his soldiers to shoot at Lady Fairfax who was shouting support for Charles from the spectator's gallery.
- During the king's execution, the defendant ordered his soldiers to shout "execution, execution."
- Completely reject the defendant's attempt to justify his actions as merely following the orders of his superiors.

**Witnesses****Holland Sympson**

You will testify that you witnessed Colonel Axtell in command of the soldiers at the king's trial. When they were reading the charges against the king you heard a lady—you think it was Lady Fairfax—shout that the allegations against Charles were lies and that it was Oliver Cromwell who was the true rogue and traitor—not the king. Then you witnessed the defendant order some of his musketeers—his soldiers—to fire at the lady. However, you should acknowledge that none of his soldiers actually fired into the gallery.

**Colonel Hercules Huncks**

On the morning of the king's execution, you were in a room with Colonel Phayre, Colonel Hacker, and General Oliver Cromwell. The defendant entered the room at the time that Oliver Cromwell was ordering everyone to sign the king's death warrant. You refused to sign, and Cromwell began directing some very cross and threatening words at you. Colonel Axtell told you that you better sign the death warrant or else there would be dire consequences. He didn't say what would happen to you, but you were trembling with the fear of what was going to happen to both the king and yourself. You will testify that, despite your fears, nothing happened to you as a result of refusing to sign the king's death warrant. This is a particularly devastating piece of evidence against Colonel Axtell, since he will likely testify that he had to obey orders, or he would have been shot.

**Sir Purback Temple**

You were present at the trial of the king and heard Charles demand from the king's chief prosecutor (Bradshaw) by what authority and commission they were placing him on trial for treason. Then you heard Lady Fairfax cry out from the gallery that the king was innocent and that Oliver Cromwell was a traitor. Then you heard the prisoner cry out, "Down with the whore, shoot her." While the king was trying to make himself heard, you witnessed the defendant laughing and joking with his soldiers, scoffing aloud, and making snide remarks about how the king should be punished. Meanwhile, the king was desperately trying to say how dear the liberties and rights of his people were to him and that they should remember that he was their lawful king. You also heard the defendant command his soldiers to cry out, "Justice, justice." Most of his soldiers obeyed, but some of his men hesitated, at which point the defendant started beating them with his cane until they all cried out—along with him—"justice." You also saw some of the soldiers spit in the king's face while shouting for his execution. Then the court sentenced the king to death. His majesty was immediately hurried out of the courtroom by the prisoner's soldiers who treated him as if he were a common criminal. After the king's execution, you paid some of the soldiers under the prisoner's command to show you his body. They took your money and, in a very scoffing manner, took you by the hand and said, "If you think there is any sanctity in his body, then look here." Then you saw the head of the blessed martyred king lying in a coffin with his body—smiling as perfectly as if it had been alive.

**Griffith Bodurdoo**

You were in the observation gallery during the king's trial in Westminster Hall. You will say that the prisoner, Colonel Axtell, was constantly giving commands to his soldiers during the trial. During the trial, there was a lady in the same gallery—you didn't know her name at the time—who was muttering, "Not half the people believe the king is a traitor—the charges are a lie." Then you heard the prisoner tell his soldiers to shoot her if she said one more word. The lady left—so she was not shot.

**Richard Young**

You were on the scaffold when the king was executed and saw the prisoner strutting around in front of his men, encouraging them to say, "Let us now have justice against the king." You also heard him encourage his soldiers to shout "execution, execution." He seemed to be delighted that the king was about to have his head chopped off.

**John Jeonar**

You had the honor of being one of the king's domestic servants during his trial. You stood close to the bar, where the king was when he was being questioned. Colonel Axtell was to the right of you. He was in charge of the soldiers charged with keeping order in the courtroom. Several times during the course of the trial, you remember hearing him say to his men, "Soldiers—cry for justice, justice." On the last day of the trial, you heard him tell his soldiers to cry out "execution, execution." You will say that he seemed elated that the king was going to be murdered.

**Samuel Burden**

You are a soldier who served with the defendant. You believe the prisoner knows you very well, since at one point you were under his command. You wish you never had served with him because he ordered you to say things against the king, like calling for his execution. After the king was sentenced to death, Axtell commanded you to take a file of soldiers to get the common executioner who lived near the Tower of London, and bring him to the Tower to execute the king. You were horrified by the death of the king. You believe that Colonel Axtell was quite happy when he saw the king's head get chopped off and displayed to the people.

**Edward Cook**

You were present on the last day of the king's trial. You heard Bradshaw tell the king that he was brought to trial by the consent of the Commons and the people of England. However, there was a lady in the gallery who cried out, "It is a lie—where are these people or their consents—Cromwell is a traitor." At which time the prisoner said, "What drab is that that disturbs the court? Come down from there or I will fetch you down." Then he ordered his men to prepare to fire at her. She left before they could carry out this terrible order.

**Jury**

You are a member of the jury hearing the case of Colonel Axtell, who is accused of high treason. If you are convinced by the testimony of the witnesses that the defendant even imagined the death of former King Charles I, then you must find him guilty.

# Script: Trial of Colonel Daniel Axtell

## Scene One: Opening Remarks and the Case for the Prosecution

**NARRATOR:** It is October 15, 1660, at the Sessions House in the Old Bailey—London’s courthouse. The four judges sit on a high bench overlooking the assembled court. The chief judge, Sir Orlando Bridgeman, proceeds to charge the jury, explaining the law and their duty.

**SIR ORLANDO BRIDGEMAN:** Gentlemen of the jury, by the statute of the twenty-fifth of Edward the Third, it is made high treason to compass, and imagine, the death of the king. What is imagining or compassing the king’s death? Truly, it is anything that shows a desire of the king’s death. Words in many cases are evidence of the imagination because they are evidence of the heart. The king’s execution is a heinous crime because it is the head of the Commonwealth that is cut off. Gentlemen, mind you do your duty, but be advised that if the defendant shall attempt to shroud themselves under the pretended excuse that they were only following a higher authority, that be not a valid reason—it is rather the height of aggravation. Hark ye to your duty to find a true and just verdict. Clerk, read the charge against the defendant.

**CLERK OF THE CROWN:** Colonel Axtell, raise your hand. You stand indicted of high treason in the County of Middlesex. How say you, are you guilty or not guilty of high treason?

**AXTELL:** I am not guilty.

**BRIDGEMAN:** You will now be tried before God and country. King’s Council, you may address the court.

**SIR GEOFFREY PALMER, KING’S COUNCIL:** *(Rising and facing the judges and the jury.)* May it please your lordships and gentlemen of the jury, Colonel Axtell was the commander of a cruel and bloody group of soldiers who even executed prisoners of war during Oliver Cromwell’s campaign against the Catholics in Ireland. As commander of these reprehensible soldiers, he did imagine and compass the bloody execution of our late king, Charles I. Our evidence shall be that during the time of the late king’s trial, Colonel Axtell commanded the soldiers in Westminster Hall. When a spectator in the gallery—Lady Fairfax—cried out that the king was innocent, and that Cromwell was the traitor, Colonel Axtell ordered his soldiers to shoot her. Also, several times during the court proceedings, he ordered and encouraged his soldiers to cry out “justice, justice” and “execution, execution.” When some of them would not do it, he issued orders that they should be punished—they should be whipped. When our poor monarch was beheaded, he ordered his soldiers—yet again—to cry “justice, justice,” and that they should shout “execution, execution.” My lords and gentlemen of the jury, if we prove any of these facts, you must find that Colonel Axtell was guilty of compassing and imagining the king’s death—and that is equal to us proving he did actually chop off the king’s head himself!

**BRIDGEMAN:** Do you wish to call any witnesses?

**KING'S COUNCIL:** Yes, your honor. We call Mr. Holland Sympson.

**BRIDGEMAN:** Mr. Holland Sympson, approach the bench.

**KING'S COUNCIL:** Please tell the lords and the jury who commanded the soldiers during the king's trial at Westminster Hall.

**SYMPSON:** Colonel Axtell.

**KING'S COUNCIL:** What did you see and hear in the courtroom?

**SYMPSON:** There was a kind of clamor in the courtroom. Then a lady—I think it was Lady Fairfax—stood up in the spectator's gallery when they were reading the charges against the king. She shouted that it was a lie and that most of the people of England believed that Oliver Cromwell was a scoundrel and a traitor—not the king. Then Colonel Axtell—the prisoner—commanded some of his soldiers to fire at this lady.

**COLONEL AXTELL:** (*Rising*) That be a lie!

**KING'S COUNCIL:** Did his soldiers obey that order?

**SYMPSON:** No—before they could do anything, someone in the gallery grabbed the lady and hustled her away.

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. Huncks.

**BRIDGEMAN:** Mr. Huncks, approach the bench.

**KING'S COUNCIL:** Mr. Huncks, please tell the lords and the jury what you know about the prisoner at the bar, Colonel Axtell.

**HUNCKS:** The morning of the king's execution, Colonel Axtell came into the room where Colonel Phayre, Colonel Hacker, Oliver Cromwell, and I were talking. We were actually standing in the doorway. Cromwell and Colonel Axtell were trying to convince me to sign the order for the king's execution, but I refused. Cromwell was threatening me, telling me that I better sign or there would be serious consequences for me. I was trembling because I was afraid for the king.

**AXTELL:** (*Rising*) My lords, I do not remember that ever I had any conversation with this man. He is a complete stranger to me and yet he comes as a witness against me.

**KING'S COUNCIL:** Mr. Huncks, do you have anything further to add?

**HUNCKS:** Cromwell wanted me to write a warrant of execution for the king. I refused to write that warrant, at which time he spoke of a man standing at the door who might change my mind—I saw that as a direct threat.

**KING'S COUNCIL:** Who was that man?

**HUNCKS:** It was the prisoner—Colonel Axtell.

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Sir Purback Temple.

**BRIDGEMAN:** Sir Temple, approach the bench.



**KING'S COUNCIL:** Please tell my lords and the jury what you know of how Colonel Axtell behaved at the trial of our late king, Charles I.

**TEMPLE:** I was very near Charles, and I heard the king asking the prosecutor—Bradshaw—why he believed this so-called court had the authority to place him on trial. Then I heard Lady Fairfax cry out from the spectator's gallery that the king was innocent and that Oliver Cromwell was a traitor. Then I heard the prisoner cry out, "Down with the whore, shoot her." And—all during this time—the poor king was pleading to be heard, and Colonel Axtell was laughing and joking with his soldiers and mocking the king. Meanwhile, Charles was desperately trying to say how the liberties and rights of his people were very dear to him and that they should remember that he was their lawful king.

**KING'S COUNCIL:** And what did the prisoner say then?

**TEMPLE:** He commanded his soldiers to cry out "justice, justice." A few of his soldiers obeyed, but some hesitated, at which time the prisoner started beating them with his cane until they all cried out along with him, "Justice, justice, execution, execution."

**KING'S COUNCIL:** Were there any other indignities done to the late king?

**TEMPLE:** Yes, I saw some of the soldiers under Colonel Axtell's command spit in the king's face while shouting for his execution. Then I heard the court sentence the king to death.

**KING'S COUNCIL:** What happened next?

**TEMPLE:** His majesty was immediately hurried out of the courtroom by the prisoner's soldiers who treated him as if he were a common criminal.

**KING'S COUNCIL:** And was the prisoner commanding these soldiers the whole time?

**TEMPLE:** Yes.

**KING'S COUNCIL:** Did you have the occasion to see the body of our late martyred king?

**TEMPLE:** Yes, I paid some of the soldiers under the prisoner's command to show me his body. They took my money and in a very jeering manner took me by the hand and said, "If you think there is any sanctity in his body, then look here." Then I saw the head of the blessed martyred king lying in a coffin with his body—smiling as perfectly as if it had been alive. This is all I have to say about this sad affair and this horrid prisoner, Mr. Axtell.

**AXTELL:** (*Rising*) I say before you lords and jury—before whom I must be judged—that I do deny all the evidence presented by this witness. I swear that all he has said are foul lies.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. Griffith Bodurdoo.

**BRIDGEMAN:** Mr. Bodurdoo, approach the bench.

**KING'S COUNCIL:** Mr. Bodurdoo, please tell the court where you were during the king's trial.

**BODURDOO:** I was in the gallery in Westminster Hall where they were trying our dear king.

**KING'S COUNCIL:** What did you see and hear?

**BODURDOE:** I saw this gentleman there (*pointing at Axtell*) who was then called Colonel Axtell. I saw him busily giving orders to the soldiers under his command to watch closely that nobody disturbs the proceedings. During the trial, there was a lady near me in the gallery—I didn't know her name at the time—who was muttering out loud that not half the people believe the king is a traitor and that the charges against the king were lies. Her voice got louder and louder. Then I heard the prisoner order his soldiers to shoot her if she did not shut up. Some of the other people in the gallery hustled her away so she was not shot.

**KING'S COUNCIL:** So you believe that if she had continued with her defiant words, the defendant's soldiers would have actually shot her?

**BODURDOE:** I do believe that his men would have fired into the gallery.

**AXTELL:** (*Rising*) That be not true. I never ordered my men to fire into the gallery. I was just trying to maintain order.

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. Richard Young.

**BRIDGEMAN:** Mr. Young, approach the bench.

**KING'S COUNCIL:** Mr. Young, what do you know of the words and behavior of the prisoner at the time of the king's trial?

**YOUNG:** The prisoner was very busy and active in encouraging the soldiers to say, "Let us have justice against the king. Let him pay for his treason."

**AXTELL:** (*Rising*) It is true that I called for justice, but that was a plea that the king receive a fair and just trial.

**YOUNG:** (*Looking at Axtell*) Your tone suggested to me that you believed the only just sentence from the court would be death.

**AXTELL:** No, I cried for mercy.

**KING'S COUNCIL:** So you believed that what Colonel Axtell meant by justice was that the king's head should fall?

**YOUNG:** Yes.

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. John Jeonar.

**BRIDGEMAN:** Mr. Jeonar, approach the bench.

**KING'S COUNCIL:** Mr. Jeonar, please tell the court of Colonel Axtell's words and behavior at the king's trial.

**JEONAR:** I had the honor of being one of the king's domestic servants during his trial. I stood close to the bar where the king was and Colonel Axtell was on my right. He was in command of the soldiers charged with keeping things in order. I heard him say, "Soldiers, cry for justice, justice."

**KING'S COUNCIL:** What do you think he meant by ordering his soldiers to call for justice?



**JEONAR:** He meant that the king should be condemned.

**KING'S COUNCIL:** Were you also present when our poor king was murdered?

**JEONAR:** Yes.

**KING'S COUNCIL:** And what did you hear the defendant say on that day?

**JEONAR:** I heard him order his soldiers—who were guarding the king—to cry out “execution, execution.”

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. Samuel Burden.

**BRIDGEMAN:** Mr. Burden, approach the bench.

**KING'S COUNCIL:** Mr. Samuel Burden, please tell my lord and the jury what you know of the word and behavior of the prisoner.

**BURDEN:** My lords and gentlemen, I do believe the prisoner knows me well because I served with him in the New Model Army. In fact, he was my commander when we were guarding the king prior to his execution.

**KING'S COUNCIL:** Did the prisoner order you and the other soldiers to say things that you found objectionable?

**BURDEN:** He ordered me and the other soldiers to shout for justice during the king's trial and to call for execution. I wished he had not been my commander.

**KING'S COUNCIL:** Did you have anything to do with the king's execution?

**BURDEN:** Unfortunately, yes. Colonel Axtell commanded me to take a file of soldiers to get the common hangman who lived near the Tower of London, and to bring him to the Tower to execute the king.

**KING'S COUNCIL:** No further questions.

**BRIDGEMAN:** You may call your next witness.

**KING'S COUNCIL:** We call Mr. Edward Cook.

**BRIDGEMAN:** Mr. Cook, approach the bench.

**KING'S COUNCIL:** Mr. Cook, were you present in the courtroom on the last day of the king's trial?

**COOK:** Yes. I was there.

**KING'S COUNCIL:** What did you hear?

**COOK:** I heard Bradshaw—the prosecutor—tell the king that he was brought to trial by the consent of the Commons and the people of England. There was a lady in the spectator's gallery who cried out, “It is a lie. Where are these people who believe the king is guilty? Cromwell is the traitor.”

**KING'S COUNCIL:** What did the prisoner say?

**COOK:** The prisoner said, “What dowdy wench is that who disturbs the court? Come down from there, or I will fetch you down.”

**KING'S COUNCIL:** Then what did he do?

**COOK:** I heard him tell some of his soldiers to prepare to fire at the lady if she did not cease her loud comments.

**KING'S COUNCIL:** Then what happened?

**COOK:** Suddenly the lady was gone. I think she was taken from the gallery—I don't know by whom.

**KING'S COUNCIL:** No further questions. My lords and gentlemen of the jury, we are finished presenting you with our evidence and we believe the statements of these witnesses render the prisoner a much more dastardly and treasonous person than we thought. We leave him now to make his own defense.

## Scene Two: Colonel Axtell's Defense and the Judgment of the Court

**SIR ORLANDO BRIDGEMAN:** Daniel Axtell, you may now address the court as to why you should not be convicted of high treason.

**AXTELL:** May it please your lordships, in the first place—because I am just a poor soldier and am ignorant of the laws—I desire to know upon what statute this indictment is grounded.

**BRIDGEMAN:** It is grounded upon the statute passed under the reign of Edward III that defines high treason as going against the sovereign person of the king—even imagining the death of the king. It is also treason to levy war against the king in his realm and to adhere to the king's enemies. Treason is to be punished by death.

**AXTELL:** My lords, I have heard by a learned judge that you are obligated by law to assist me in my defense, and not to take advantage of my ignorance of the law and court procedure.

**BRIDGEMAN:** What do you want from us Colonel Axtell?

**AXTELL:** Your indictment was that I compassed and imagined the death of the king. My lords, I was only acting under the authority of the Lords and Commons assembled in Parliament that I sincerely believed was legally trying the king. If I am to be judged for treason, then the entire House of Commons, who are the collective body and representation of the nation, is guilty too.

**BRIDGEMAN:** Colonel Axtell, you acted when the Parliament was under the forced domination of the traitor Oliver Cromwell. It troubles me greatly to see you try to excuse your behavior by saying that you were only acting under the authority of that traitor Oliver Cromwell—one of the greatest violators of our former king.

**AXTELL:** If it please your lordship, my military commission authorized me to obey General Fairfax and General Cromwell because they were my superior officers. It was given me when the Lords and Commons sat in Parliament. I had no other Commission than this. I followed my orders both during the trial and with the subsequent execution—as a soldier I had no other choice.

**KING'S COUNCIL:** (*Rising*) My lords, remember that we do not charge the prisoner with anything that he did as a soldier during the war against the king's army; we charge him with actions he performed at the king's trial and the king's execution. He encouraged his soldiers to cry "justice, justice, execution, execution," and all those other violent actions, borne from his own malicious heart, against the king. We humbly ask you that he may answer to the charge against him, and that is the compassing and imagining the death of our poor late king by these overt acts that we have proved with our witnesses. My lords, we desire that the prisoner remember that he is not indicted for levying war against the king.

**AXTELL:** May it please the court, I was in command of soldiers at the king's trial but it was not a voluntary position—I was bound to obey my general who instructed me to call for justice and, if the king be determined a traitor, to call for his execution.

**KING'S COUNCIL:** (*Rising*) Colonel Axtell, that is no excuse for treason—no man by his commission can permit the doing of an act that is treason. You must take notice of the authority whether it be good or not. Your commission was not to put the king to death, but to the contrary—to preserve the king's life. Now you try to cloak yourself under the authority of General Fairfax and General Cromwell—saying you were simply obeying orders.

**AXTELL:** I am to serve and obey all my superior officers. That is my commission. If I do not, I die by the law of war.

**BRIDGEMAN:** You are to obey them in their just commands—all unjust commands are invalid. If our superiors should command us to do unjust actions, we are not bound to obey those orders.

**AXTELL:** It has not been proved that I did either compass or imagine the king's death. I did nothing but as a mere soldier. I had authority from my generals. I would leave this before your lordships and the jury that what I have done hath been solely by the authority of the generals.

**BRIDGEMAN:** It is for compassing and imagining the death of the king, by such overt acts as making your soldiers cry out "justice and execution," that you are being tried.

**AXTELL:** My lords, had I not followed the orders from my general, I would likely have suffered death for disobedience.

**BRIDGEMAN:** What say you to the charge that you asked your soldiers to fire on a lady in the gallery unless she did hold her tongue?

**AXTELL:** I did nothing but what I was commanded upon pain of death, to preserve peace, in fulfilment of that command from my superior officers. Silence was required, and that was all that was done. I suppose where a man is commanded to keep silence, as the sheriff is required to keep all at peace in a court, if he restrain a person that will not be quiet, it is not treason.

**BRIDGEMAN:** Did you not strike some of your soldiers, forcing them to call for justice and execution?

**AXTELL:** No. My lord, I command my soldiers to hold their tongues, and to say, "I'll teach you to cry justice." Those standing by me may have heard something else, but that is what I said.

**BRIDGEMAN:** How did you receive your orders?

**AXTELL:** I did not move a day but by special command from General Fairfax. He gave his orders every morning to his adjutant general, or major general, and they issued them out to such persons as he appointed.

**BRIDGEMAN:** So, you deny ordering your soldiers to shoot the lady in the gallery?

**AXTELL:** I said not any such work or anything like it. I heard there was an officer who went up and begged her to be silent—that is all I know of this matter.

**BRIDGEMAN:** But your soldiers also called for execution?

**AXTELL:** I don't know what my soldiers were thinking. I was calling for execution of justice.

**BRIDGEMAN:** The evidence is that you beat them because they did not readily cry "justice, justice."

**AXTELL:** No, I beat them because they did do it. I leave it upon the consciences of the jury to weigh it carefully how I could be guilty of compassing or imagining the death of the king, when nothing is charged against that. I never counseled, sentenced, or signed the king's death warrant. I must say that if it be treason to be guided by judgment of the Lords and Commons in Parliament—I must say if that be treason to take up arms for a Parliament upon such grounds and expositions of the statute which they have made and published by their own authority, if I am guilty under this general principle—then the Parliament would be guilty of treason. I have but one word more. I do appeal to God before whom I shall have another trial. I do not find myself guilty either of consulting, contriving, or having a hand in the death of the king. I am innocent, and I pray that God will witness upon this account and I submit to the mercy of the court.

**NARRATOR:** The jury retires to consider the evidence and render their verdict.

**BRIDGEMAN:** Gentlemen of the jury, how find you? Is the prisoner at the bar, Colonel Axtell, guilty of high treason? How say you all?

**FOREMAN OF THE JURY:** Guilty.

**BRIDGEMAN:** (*Turning to the prisoner*) Colonel Axtell, the court has found you guilty of high treason in the detestable and deplorable murder of our Sovereign Lord King Charles I. Although you did not actually cut off the head of our blessed king, you prepared the way and means to it. The court sentences you to be taken to the place of execution where you will be hanged, drawn, and quartered. May the Lord have mercy on your eternal soul!



# Documentary Evidence



**Hanging, Drawing, and Quartering at Whitehall**  
Copper Etching, Seventeenth Century

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Image source: *Criminal Justice Through the Ages*, 1981, Mittelalterliches Kriminalmuseum, Burggasse, Rothenburg, Germany.

# Time Line

<b>1642</b>	The English Civil War begins.
<b>1649</b>	Charles I is tried and executed.
<b>1651</b>	The English Civil War ends.
<b>1658</b>	Oliver Cromwell dies.
<b>1660</b>	Charles II is brought to the throne during the Restoration. Colonel Daniel Axtell is tried and executed.
<b>1688</b>	The Glorious Revolution begins in the reign of William and Mary.

# Glossary

**Compass:** To arrange or measure.

**Constructive treason:** The mere imagining or organizing of a treasonous action. Under this definition, it is not necessary for a person to commit an overt act for it to be considered treason.

**Good Old Cause:** A term given by former soldiers of Cromwell's New Model Army to the reasons why they opposed the king and supported Parliament in the English Civil War.

**Regicide:** Killing a king.

**Treason Act 1351:** A law passed by the English Parliament under the reign of Edward III that defined treason. Provisions that defined high treason included imagining the death of the king, levying war against the king in his realm, and adhering to the king's enemies.

# Postscript

On Friday, October 19, 1660, Colonel Daniel Axtell was taken from Newgate Prison to the place of execution in Tyburn, where he was slowly hanged until half dead and then cut down by the executioner. Still conscious, his privy members were cut off and he was disemboweled. These body parts were then burned before his eyes. Finally, he was decapitated and quartered. His bloody body parts were then taken back to Newgate Prison, where his head was set on top of a pole. His legs, arms, and torso were exposed on the city gates of London. Prior to his gruesome execution, Colonel Axtell showed little fear or remorse, saying that if he had “a thousand lives I would lay them all down for the good old cause,” and that he “was fully convinced in my conscience of the justness of the war, and thereupon engaged in the Parliament’s service, which as I did and do believe was the cause of the Lord. And I adventured my life for it, and now die for it.”<sup>1</sup>

The restoration of the Stuart kings (Charles II and later James II) to the English throne was short-lived. Charles II was forced to yield to Parliament and to swear to uphold the Magna Carta and the Petition of Right. He also signed the Habeas Corpus Act 1679, which prohibited imprisonment without due cause and a fair trial. Charles tired of pursuing justice against the regicides, saying, “I must confess that I am weary of hanging except upon new offenses; let it sleep.”<sup>2</sup>

James II, Charles successor, created problems for Parliament because he was a Catholic who really wanted to return England to an absolute monarchy. This was an idea whose time had passed. Parliament invited William III of Holland, husband of Mary, the Protestant daughter of James II, to become ruler of England. He landed with a small army, and James and his supporters, rather than fight, fled to France. It was a bloodless victory, and in 1689, William and Mary, in what was termed the Glorious Revolution, became king and queen of England.

1 Spencer

2 Ackroyd, 367



# Discussion Questions

1. The proper objective of any legal trial is that it be conducted fairly and that the outcome is just. The cornerstone should be a presumption of innocence. The jury selected to decide the issue of guilt or innocence should be impartial and independent. Do you think that Colonel Axtell got a fair and impartial trial? Would it have made any difference if he had an attorney to represent him? Discuss.
2. Shortly after Charles I was beheaded, his eldest son, the future Charles II, wrote from exile in Holland, vowing vengeance on those responsible for his father's death. He said that, given the chance, he would use all ways and means possible to hunt down and punish the bloody traitors who were either actors or contrivers of his father's execution. Did the avowed path of vengeance taken by Charles assure that none of the accused regicides, including Daniel Axtell, would be given a fair trial and a just punishment? Discuss.
3. What evidence do you think was most damaging against the defendant? Why?
4. Why do you think that Colonel Axtell was not able to provide any witnesses in his defense? Discuss.
5. Colonel Axtell's primary defense was that he was just following orders from his superior officers, a defense best-known to us for its unsuccessful use by the Nazis at the military tribunal in Nuremburg following World War II. However, in the judgment of the court, this was not a valid defense because his superior officers were all traitors, and obeying those traitors made him a traitor. Who makes the better argument? Do you think "just following orders" is a valid defense for military personnel today? Discuss.
6. Axtell believed that if he had not followed the orders of his superior, then he would very likely have suffered death for disobedience. Is that a valid excuse for following what may be deemed an illegal or immoral order? Discuss.
7. Why do you think the English used the exceptionally brutal method of hanging, drawing, and quartering to punish those convicted of high treason?
8. One of the best-known heroes of the American Revolution was the convicted spy Nathan Hale, who reputedly said prior to his hanging by the British that he only regretted that he had but one life to give for his country. Similarly, Axtell showed little remorse for his actions, saying, "If I had a thousand lives, I would lay them all down for the Good Old Cause." Did this make him a hero? Discuss.
9. The regicides believed to the end that the trial and execution of Charles I had been done according to the will of God. One of them, Thomas Harrison, said at his treason trial, "I followed not my own judgement; I did what I did, as out of conscience to the Lord. . . . Maybe I might be a little mistaken, but I did it all according to the best of my understanding, desiring to take the revealed will of God in his Holy Scriptures as a guide to me." Do you believe that would have been a better defense for Colonel Axtell than his belief that he was just following orders? Discuss.



10. The savage and horrific death by hanging, drawing, and quartering was defined as the punishment for treason by the Treason Act of Edward III primarily to deter ambitious relatives and other individuals from murdering the male members of the royal family and usurping power (see Documentary Evidence). The English eventually moved away from using this cruel punishment. In fact, although the French Revolution brought into vogue the use of the guillotine, a bloody but much more humane form of execution, it actually was first used in England. Why do you think they abandoned hanging, drawing, and quartering? Discuss.

## Extension Activities

1. Colonel Axtell was by no means the only person tried and executed for regicide. King Charles II was determined to bring to trial and execute every person he suspected had anything to do with the execution of his father, Charles I, especially those who had signed his father's death warrant. Research and either write an essay or create a presentation about the fate of another individual associated with the death of Charles I.
2. Colonel Axtell was tried and condemned for his participation in the trial and execution of King Charles I. The question of who wielded ultimate authority was the central moral and legal problem in the king's trial. However, Charles's trial posed an interesting conundrum. If the courts of England were the king's courts, and the monarch was the fount of justice and the object of all allegiance, then how could he commit treason against himself or be tried by his own court? Research the trial of Charles I and either write an essay or make a class presentation that discusses that problem.
3. Historically, the manner of execution was believed to send an important message to society. Spies were hanged. Soldiers were shot. Witches were hanged or burned alive. Rebels against Rome were crucified. Colonel Axtell and the other regicides were hanged, drawn, and quartered. Charles I was decapitated—a privileged death reserved for nobility. Louis XVI was beheaded by a machine symbolically signifying equality in death. Write an essay or create a class presentation that expands on the theme of the manner and mode of execution and its cultural and symbolic meanings.
4. Colonel Axtell's defense that he was "just following orders" has survived the test of time. It has served as the cornerstone of defensive strategy for such notable historical figures as Captain Henry Wirz, prison-camp commander at Andersonville prison during the American Civil War; the Nazi leaders at the Nuremburg trials; and Lieutenant Calley during the Vietnam War. Either write an essay or create a class presentation that historically reviews the success or failure of this line of reasoning.

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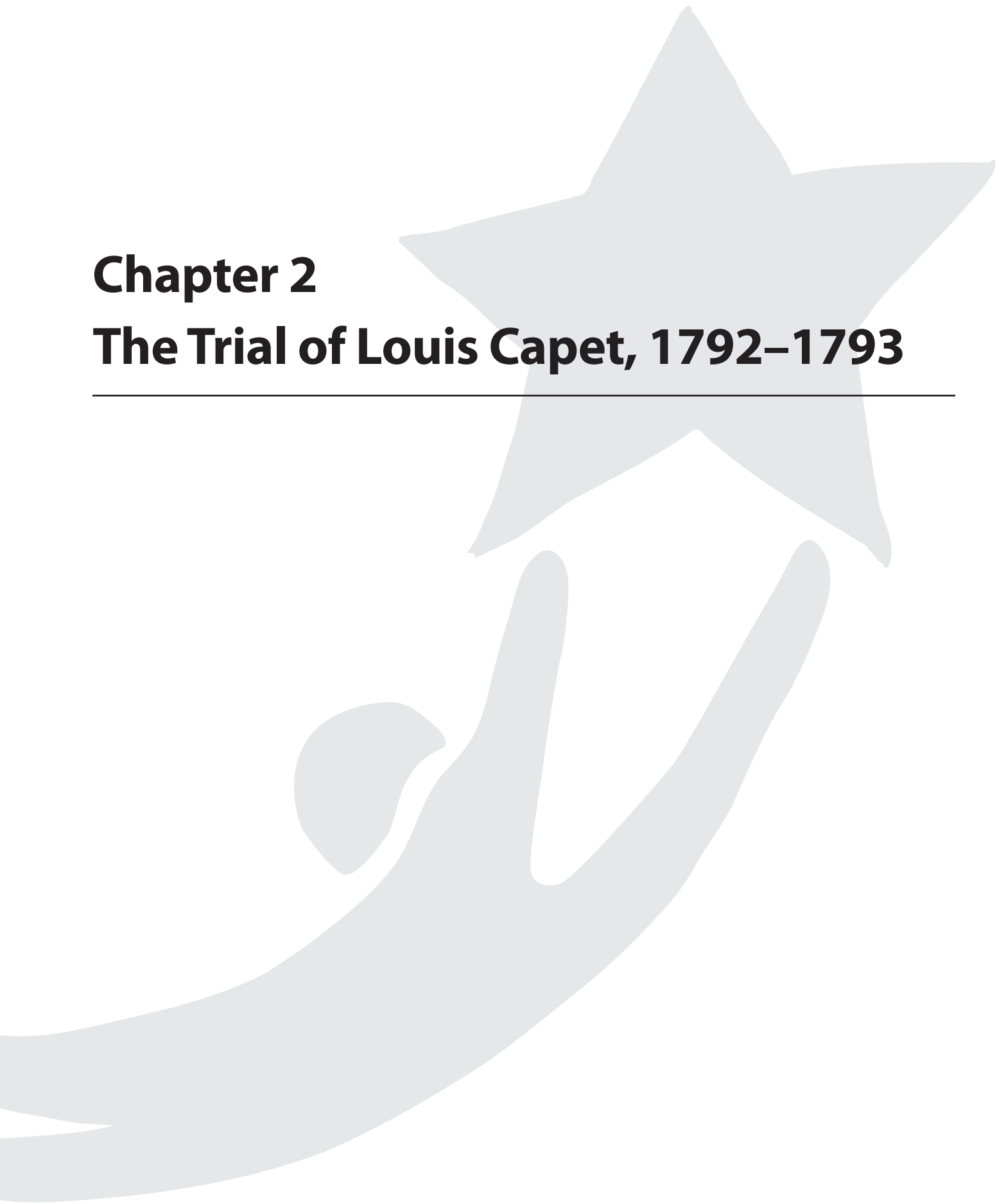
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## **Chapter 2**

# **The Trial of Louis Capet, 1792–1793**

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## ● Introduction ●

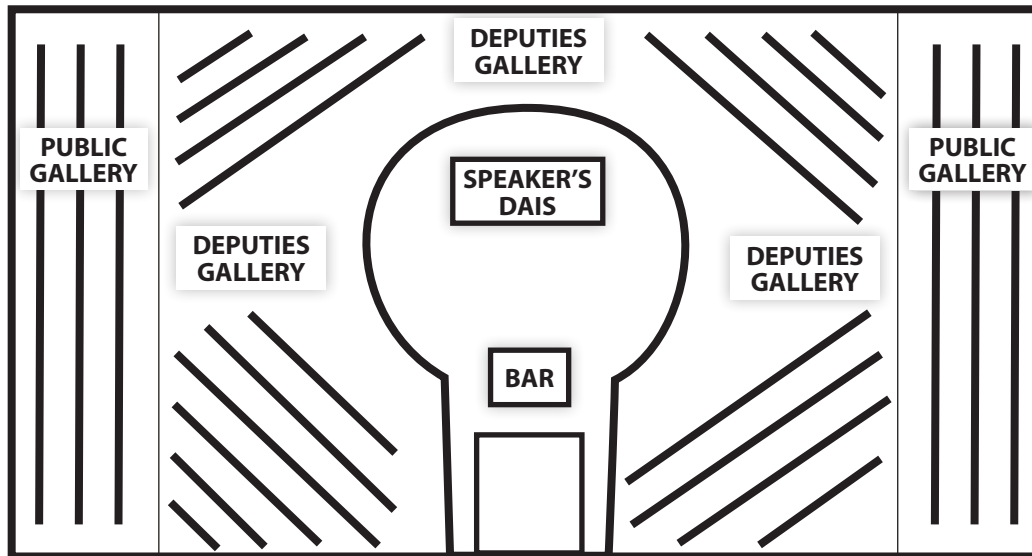
The trial of Louis Capet is one of the most bizarre and extraordinary legal proceedings in European history. It was held in the French National Convention, and every legislative deputy had to cast a vote for guilt or innocence. Louis's fate would ultimately define the direction of the French Revolution and the future of Europe for many generations to follow.

### **Objectives**

1. Students will understand the basic facts of the French Revolution leading up to the decision to place Louis Capet on trial.
2. Students will appreciate the significance of the role Louis played in the course of the French Revolution.

## Lesson Plan

### Diagram of Courtroom Seating



### Notes for the Teacher

1. Read and discuss with students the Background Essay. Tell students that they may use this information during the trial.
2. Assign students to the various roles. Unless you have a very capable student, you may decide to play the role of one of the convention presidents—there can be up to three. Also, the roles of Louis and his primary attorney, de Sèze, are particularly demanding.
3. You should separate the students into the following groups: Louis, Marie Antoinette, and Louis's lawyers; Jacobins; and Girondists. They should meet in separate areas and be urged not to share information with those in the other groups.
4. Students should be given the remainder of any class time and the next class to prepare for the trial.
5. Note that this is a long trial (see Suggested Schedule, based on the historical events), but if you want to shorten it you can follow this schedule:
  - 5 minutes for the convention president to read the charges and receive Louis's not guilty plea
  - 10 minutes for Louis to answer questions
  - 20 minutes for speeches from deputies about the ability of the Convention to try Louis; declare his guilt or innocence; and a suggested penalty

- 5 minutes for de Sèze (and possibly Louis's other lawyers) to give Louis's defense speech
  - 5 minutes for voting on guilt or innocence and sentencing. Time permitting, you may allow a very brief statement on the reason for each deputies' decision
6. On the day of the trial, arrange the classroom to look like the National Convention Hall (see Diagram).
  7. Note that in order to make this trial manageable, I have had to greatly reduce the number of deputies associated with the actual event and the length of their speeches, which often ran on for hours. Also, in the actual trial there were two urns in front of the speaker's dais, for voting on Louis's guilt or innocence. I simplified this by having only one box or urn. In the actual trial, only one attorney, de Sèze, gave Louis's defense speech, whereas in this scripted version, the other two lawyers have speaking parts. You may decide to follow this procedure in the role-play version.

### Suggested Schedule (role play)

#### Day One:

1. Read and discuss the Background Essay.
2. Assign roles and devote the remainder of class time to preparing for the trial.

#### Day Two:

1. The convention president (Séchelles) calls the delegates to order. Citizen Dufriche-Valazé is recognized and introduces the report of the Committee of Twenty-Four regarding the king's alleged crimes.
2. Citizen Mailhe is recognized and addresses the Convention regarding its ability to try the king.
3. Deputies give speeches on whether the king should be tried by the Convention.

#### Day Three:

1. The convention president (Barère) calls the delegates to order. Citizen Roland and Citizen Lindet are recognized, and they address the Convention about the incriminating evidence found in the "iron box."
2. Citizen Robespierre is recognized and addresses the Convention, asking it to immediately condemn Louis for "declaring war on the Revolution."
3. Louis Capet is questioned in front of the entire Convention.
4. When Louis is finished answering questions, the convention president advises him to seek counsel and prepare his defense.

#### Teaching Tip

Secretly prime a student playing a pro-Louis deputy to rise when Louis is testifying during the trial and shout "*Vive le roi!*" [Long live the king]



### Day Four:

1. The convention president (Vergniaud) calls the delegates to order.
2. The counsel for the defense, Citizen de Sèze, makes the king's formal defense.
3. After de Sèze concludes his speech, the convention president advises the deputies that they need to vote on one of the following options: (a) Is Louis guilty? Or (b), Should his guilt or innocence be referred to the people?
4. If he is found to be guilty, then the convention president advises the deputies that they need to decide on what his punishment will be. Options include: (a) exile, (b) life in prison, or (c) death by guillotine.
5. Louis is sentenced by the convention president.

**Day Five:** Discussion Questions and Extension Activities.

### Suggested Schedule (scripted version)

**Day One:** Read the Background Essay. Begin reading the scripted version of the trial.

**Day Two:** Conclude reading the scripted version of the trial and debrief using the Discussion Questions.

**Day Three:** Assign Extension Activities.



### Teaching Tip

For a small class, you can combine the role of court clerk and bailiff, use only one convention president, use only one or two of the defense attorneys, and only use as many deputies as you need.



### Teaching Tip

The deputies named here are the primary deputies among the Jacobins and Girondists—the most outspoken of the deputies associated with the king's fate.

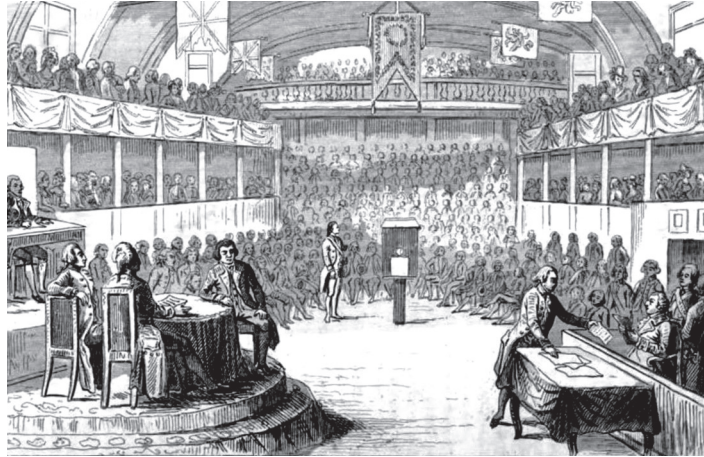


## Roles Grid

Role	Historical Character	Student Name
Convention Presidents and Girondin Deputy	Marie-Jean Hérault de Séchelles	
	Bertrand Barère	
	Pierre Vergniaud	
Court Clerk	Nicolas Chambon de Montaux	
Bailiff	Antoine-Joseph Santerre	
Defendant	Louis Capet	
Defense Attorneys	Raymond de Sèze	
	Guillaume-Chrétien de Lamoignon de Malesherbes	
	François Tronchet	
Girondin Deputies	Jacques Pierre Brissot	
	Maximin Isnard	
	Charles Eléonor Dufriche-Valazé	
	Jean-Baptiste Robert Lindet	
	Jean-Baptiste Mailhe	
	Jean-Marie Roland	
Jacobin Deputies	Camille Desmoulins	
	Jacques-Nicolas Billaud-Varenne	
	Louis Antoine de Saint-Just	
	Maximilien Robespierre	
	Emmanuel Joseph Sieyès	
	Georges Danton	
	Jean-Paul Marat	
	Philippe -Egalité	

**Notes:** There were many more deputies who participated in the trial. Other possible roles include Henri Grégoire, Jacques-Louis David, Claude Fauchet, François Buzot, Jean-Paul Rabaut Saint-Etienne, Louis-Sébastien Mercier, Prieur de la Côte-d'Or, Antoine Barnave, Prieur de la Marne, Jean-Marie Collot d'Herbois, and Joseph-Ignace Guillotin.

# Background Essay



The Examination of "Louis the Last"

By spring of 1792, the people of France and their king had endured radical changes and momentous events since the calling of the Estates General nearly three years earlier. In Paris, on July 14, 1789, the Bastille, a symbol of oppression and despotism, had fallen to an angry mob and was subsequently torn to pieces. On October 6, the French king, Louis XVI, and his family, including his Austrian wife, Marie Antoinette, had been taken by an angry mob from their luxurious palace of Versailles to the Tuileries in Paris. For one hundred and seventy-five years, the kings of France had ruled under the adage that the "king can do no wrong."<sup>1</sup> Now, the revolutionary slogan of "liberty, equality, fraternity" was on the lips of most French citizens, though the country's dreadful economic situation was still keeping bread from reaching their stomachs.

Nobility, feudalism, and special privileges for the Catholic Church were formally abolished, and a Declaration of the Rights of Man was enacted, enumerating the rights and privileges of French citizens (not including women). The government had become a constitutional monarchy with a

National Assembly of elected representatives as the law-making branch of the government. Theoretically, the king still had considerable power since he was considered the executive authority and had the power to veto legislation passed by the Assembly. However, King Louis was a virtual prisoner in Paris. He was deeply unpopular and afraid to oppose any legislation he disliked. Louis reputedly remarked that he would rather be king of Metz than continue to be king of France during these turbulent times. Behind the scenes, fearing for their lives, he and his family were secretly plotting an escape.

On the evening of June 20, 1791, with France drifting into civil war over the prickly issue of the settlement of property formerly held by the first estate<sup>2</sup> and the worsening economic situation, Louis, Marie Antoinette, their two young children, the king's sister, and a few trusted servants, disguised and carrying false identifications, quietly slipped out of the Tuileries into a waiting carriage and began their fateful escape attempt. Agents loyal to the king had made arrangements to have foreign soldiers waiting near the border

<sup>1</sup> David P. Jordan, *The King's Trial: Louis XVI vs. The French Revolution* (Berkeley: University of California Press, 2004), 11.

<sup>2</sup> Under the Estates General, the First Estate was the clergy, the Second Estate was the nobility, and the Third Estate was everyone else.

Image source: Augustin Challamel, 1842, *Histoire-musée de la république Française, depuis l'assemblée des notables*, Delloye, Paris.

with the Austrian Netherlands to spirit them to safety. Hope of escape turned to despair at the tiny town of Varennes, where the poorly disguised king was recognized by a border guard, Citizen Baptiste Drouet, who, history has it, recognized the king from a *Louis d'Or*—a coin with his likeness. Within hours, the royal coach with its exhausted and depressed occupants, now surrounded by hundreds of soldiers, was on its way back to Paris. They were met at the French capital by thousands of French citizens who had filled the streets to see their captive king and his family returned to the Tuileries—defiantly keeping their hats on their heads. A few days later, an American observer, Gouverneur Morris, noted in his journal: “the Queen’s Hair is turned grey by her late Adventures.”<sup>3</sup> Most Parisians were shocked and dismayed by the king’s attempted escape. At the Cordeliers Club,<sup>4</sup> an angry Citizen Marat, clearly targeting the king, declared himself ready to “exterminate all tyrants.” His words fell on receptive ears. The next day, the National Assembly passed a law suspending the king from all his official powers.<sup>5</sup>

Republican ideas began to circulate in the coffee houses, political clubs, and newspapers throughout the country. Thomas Paine, one of the most significant promoters of the American Revolution, now living in Paris, was one of the first to openly urge the complete abolition of the French monarchy. Moderate leaders in the National Assembly feared this might lead to civil war and foreign intervention. Also, legislators had been laboring for two years on a new French constitution and the monarchy was an integral part of this new government. Girondin leaders like Citizen Brissot suggested an alternative message to the citizenry. Louis had not attempted to flee from France. Instead, he had been abducted by traitorous aristocrats and rescued by patriotic Frenchmen. At the Jacobin

Club, Citizen Robespierre and other radical revolutionaries openly scoffed at this fabricated story. The king was a traitor who needed to be dealt with sooner rather than later.

On September 14, 1791, King Louis XVI reluctantly signed the new French constitution. Two weeks later, the seven hundred and forty-six members of the new legislative body met for the first time in their newly remodeled hall in the Tuileries Palace. The seats were arranged in a great semicircle, rising in rows against the side of the hall, facing the president’s chair and a rostrum for the speaker. About one-third of the members were considered constitutional royalists, popularly called Girondists because many came from the Gironde region of France, while a quarter or more were viewed as radicals, referred to as Jacobins because most were members of a political club that carried that name. The Jacobin deputies were soon called the Mountain because they chose to sit in the highest seats in the convention hall. Their leaders were the deputies from Paris, including Robespierre, Danton, Marat, Desmoulins, Saint-Just, and the former duke of Orleans, now calling himself Philippe Egalité. The majority of the members were still uncommitted to either the Girondins on the right or the Jacobins on the left. They sat in the lower seats and were nicknamed the Plain or the Marsh.

Under the new French constitution, deputies only retained law-making responsibilities. The executive authority was entrusted to the king and his appointed ministers. Radical leaders among the Jacobins openly suggested that Louis and his Austrian queen, Marie Antoinette, were secretly conspiring with nobles who had fled France and foreign agents to undermine the Constitution and to return France to an absolute monarchy. Sympathetic royalist deputies, like the now deceased Comte de Mirabeau, had influenced even moderate leaders like Barère to question whether the king had truly accepted the new constitution.

3 J. M. Thompson, *The French Revolution* (New York: Oxford University Press, 1945), 232.

4 This was one of many political clubs, the most influential was the Jacobin Club, where revolutionaries met to opine on their views about the direction of the Revolution.

5 J. F. Bosher, *The French Revolution* (New York: Norton, 1989), 173.

Beyond the borders of France, Louis's failed escape to Varennes and the adoption of the new constitution had brought the country into direct confrontation with the other crowned heads of Europe—especially Austria. They were fearful that republican ideals might spread to their kingdoms and undermine their authority. In the face of this foreign threat, Girondins like Brissot, perhaps motivated more by personal power than patriotism, believed that a successful war against one of Europe's monarchies would unite all Frenchmen under their leadership. Oddly, even Louis seemed to see this as an option, though, for a different reason. He believed a successful war would be a means of rallying the people behind the throne.

So, on April 20, 1792, the Legislative Assembly declared war on Austria. Unfortunately for France, there was to be no easy victory. Prussia immediately allied itself with Austria, and their combined armies invaded France. At first the war went badly for the French army. Republican ideals proved no match for Royalist bullets. Emboldened with success, the commander in chief of the invading Austro-Prussian army, the Duke of Brunswick, demanded that the French restore Louis XVI to full power and threatened to utterly destroy Paris if the king or his family were harmed. His declaration, known as the Brunswick Manifesto, backfired because on August 10, Parisians, enraged by rumors that the king had secretly hoarded food supplies, stormed the Tuileries Palace, killed hundreds of the king's Swiss Guards, and imprisoned Louis and his family in Temple Prison.<sup>6</sup> Since many Parisians were also killed during this violent attack, it was alleged that the king was responsible for this bloodshed. Six weeks later, on September 22, after an unexpected French victory against the foreign invaders at the Battle of Valmy, the French deputies unanimously passed a decree formally abolishing royalty. Louis was forced to abdicate the throne, and

France was declared a republic. Louis XVI was now to be called Citizen Louis Capet.

As long as foreign powers were intent on invading revolutionary France, Louis and his family remained valuable bargaining chips. The decisive victory by the French army at the Battle of Valmy on September 20, effectively removed that threat, allowing critics of the king to openly suggest that he should be tried for treason. Some extremists, like Citizen Robespierre, believed a trial was unnecessary and Louis should be executed immediately. The French legislative chamber witnessed long, heated debates over the legality of putting Louis on trial, since his person had been declared "inviolable" by the new constitution. There were two large urns in front of the president's seat in the legislative convention hall. One was marked *pour* (for) and the other was labelled *contre* (against). Deputies who wanted to speak wrote their names on a slip of paper and put it into one of the two urns. Names were then drawn randomly from each urn.<sup>7</sup> A commission of twenty-four deputies was appointed to investigate the alleged crimes of Citizen Louis Capet.

Opinions among the various convention speakers differed greatly. Some expressed the belief that since Louis had abdicated his throne nothing more should be done. He was now a private citizen and that was that. Other deputies felt that trying and perhaps executing a king (regicide) was beneath the dignity of the French people. If Louis were kept alive, he would serve the interests of the nation as a warning to others who might seek the French crown. A handful of deputies, undoubtedly convinced of the king's inviolability, believed banishment and not a trial would be the best solution.<sup>8</sup> Others argued that a royal trial would set a worthy example for other nations who wanted to initiate a democratic revolution. It would help spread the ideals of liberty, equality, and fraternity beyond the

<sup>7</sup> Thompson, 357.

<sup>8</sup> David Andress, *The Terror: The Merciless War for Freedom in Revolutionary France* (New York: Farrar, Straus and Giroux, 2006), 137.

<sup>6</sup> Jordan, 41.



borders of France. The most extreme views came from the Jacobin leaders. Robespierre believed that putting Louis on trial would in effect be putting those who had deposed him on trial at the same time, and this would mean exposing the Revolution to some kind of court of appeal. If the king was found to be innocent, then those who deposed him must be guilty.<sup>9</sup> Saint-Just bluntly said that he saw no need for a trial: “He was never a commoner, always a King; and that in itself was a crime . . . he should be judged as an enemy, not as a citizen.”<sup>10</sup> He and Robespierre argued that Louis should be executed immediately.

Louis’s trial was virtually assured when, on November 20, an *armoire de fer* (an iron chest), was discovered hidden in an inner wall of the Tuileries Palace, and the contents were turned over to Jean-Marie Roland.<sup>11</sup> The chest contained documents, some signed by Louis and others by the queen, suggesting counterrevolutionary correspondence with Marie Antoinette’s family in Austria, royalist collusion with the now deceased Comte de Mirabeau, and attempts by the royal family to bribe members of the legislative assembly. On December 10, 1792, Robert Lindet introduced the report of the Commission of Twenty-Four on the alleged crimes of Louis Capet. It outlined in great detail, buttressed with plenty of documentary evidence from the *armoire de fer*, the king’s resistance to the revolution. Now there were hardly any deputies who doubted that Louis was guilty.<sup>12</sup>

Louis was taken from his prison in the Temple’s lower tower to the *Manege*, the former King Louis XV’s riding academy, and now the formal meeting place for the National Convention, to hear the charges being leveled against him.<sup>13</sup> The streets were lined with people who stood silently as he passed.<sup>14</sup> He was formally charged by the deputies of the National Convention with thirty-three counts of high treason. He was permitted to seek counsel but only given ten days to prepare his defense. Several people courageously offered to defend Louis, including the feminist writer Olympe de Gouges,<sup>15</sup> who described herself as a free and loyal republican, convinced of Louis’s guilt as a king, but of his harmlessness as a citizen; and the Comte de Roffignac, who wrote from his exile in Madrid offering to swap places with Louis.<sup>16</sup> Ultimately, Raymond de Sèze and two elderly attorneys, François Denis Tronchet and Malesherbes, courageously agreed to defend the former king. Malesherbes acknowledged the risk, saying that he “was twice called to the [royal] council of him who was my master at a time when that position was universally aspired to. I owe him the same service when it is an office that many people judge to be dangerous.”<sup>17</sup>

You will now have a chance to participate in a role play or read a scripted version of this historic trial.

9 François Furet and Denis Richet, *The French Revolution* (New York: MacMillan, 1970), 163.

10 Andress, 137.

11 Ian Davidson, *The French Revolution: From Enlightenment to Tyranny* (New York: Pegasus, 2016), 139.

12 Thompson, 359.

13 Jordan, 44.

14 Graeme Fife, *The Terror: The Shadow of the Guillotine—France 1792–1794* (New York: St. Martin’s, 2004), 91.

15 Olympe de Gouges will be placed on trial before a revolutionary tribunal shortly after the king’s execution. Her trial is included in this book.

16 Thompson, 360.

17 Simon Schama, *Citizens: A Chronicle of the French Revolution* (New York: Knopf, 1989), 655.

# Roles

## Defendant: Louis Capet (formerly Louis XVI)

You inherited the throne of France in 1774 when you were a young man of twenty. Similar to the other kings and queens of Europe, you believed that God had selected you to rule as an absolute monarch. You are a devout Catholic with little tolerance for people of other faiths, including Protestants and Jews. The Almighty may have chosen you to rule, but he endowed you with the faculties and interests of an ordinary man. You are rather short, but very strong, with pale blue eyes, fair brown hair, and a slightly puffy face—perhaps from overeating and drinking. You have a good memory, especially for geography, history, and foreign languages. In your free time you enjoy tinkering with mechanical objects, especially clocks, and reading. You are an excellent swordsman. However, your real passion is hunting. Much of your time, prior to the Revolution, was spent roaming the forests around your magnificent palace of Versailles. Kind and generous by nature, you always became depressed when informed about disasters or accidents that harmed your subjects. Basically, you are a very nice man, a devoted husband to your two young children (a daughter and a son), a conscientious king, a faithful patron, and, unfortunately, a weak and indecisive leader.

You have been imprisoned with your family in the Temple Prison in Paris since your attempted escape on June 20, 1791. An avid reader, you spend much of each day reading books in Latin and French. Forced to abdicate the throne on November 21, 1792, you are now called Louis Capet—a title that you detest and one that never fails to irritate you.

Your defense will be twofold: First, under the French Constitution of 1791 you were a constitutional monarch, a provision that made you legally inviolate from any kind of criminal prosecution. You were forced to abdicate the throne, but all the charges against you stem from actions prior to you losing your role as king. Second, you never did anything illegal while reigning as a “Divine Right” king prior to 1791. You will specifically deny all the charges listed in your indictment before the Convention, including the following:

1. You never tried to escape from France with your family on June 20, 1791, because you never considered yourself a prisoner.
2. As the chief executive authority under the Constitution of 1791, you had the authority to veto laws. How could you be accused of illegally using that power?
3. You never gave orders to raise an army to attack the citizens of Paris.
4. You never “shed French blood.”
5. You cannot recall any dealing with the alleged traitor Mirabeau or bribing any of the convention deputies.
6. You have not had any contact with foreigners or royalist emigres eager to restore the monarchy. You cannot help it if foreign leaders want to restore you to the throne.
7. You will completely deny any knowledge of a secret iron chest and suggest that the contents must be deliberate forgeries.

8. If you did make mistakes, it was from taking the bad advice of your various ministers. You never deliberately did anything to harm the people.
9. Finally, if in doubt, deny the accusation or claim that you “cannot remember.”

**Marie Antoinette, former queen of France**

You were born on November 2, 1755, in Vienna, Austria. You were the youngest and most attractive daughter of Austrian emperor Francis Stephen and Maria Theresa. You were raised believing that it was your destiny to become a queen in one of the ruling houses of Europe. In 1770, that fate was realized when you married Louis, the heir to the French throne. Four years later, you became queen when your husband was crowned king of France and became Louis XVI from the House of Bourbon.

The stories of your excessive spending have been greatly exaggerated. In fact, rather than ignoring France’s growing financial crisis, you actually reduced the cost of running the royal household by urging the king to eliminate many of the governing positions that were based primarily on privilege. This attitude resulted in many nobles spreading scandalous stories about your personal life.

When the Revolution began in 1789, a mob descended on your palace at Versailles and demanded that you, the king, and your two children move to the Tuileries Palace in Paris. From that point on, you, along with the king, were virtual prisoners. Frightened and somewhat resentful, you resolved to reach out, secretly, to various European rulers for help—especially your relatives in Austria. After a failed attempt to flee Paris in 1791—the “escape to Verennes”—you realized that your fate was sealed if the crowned heads of Europe did not come to your rescue. When Austria and Prussia declared war on France, you were accused of secretly passing military secrets to the enemy. On August 10, 1792, you and Louis were arrested on suspicion of treason and imprisoned.

You will only be expected to witness the king’s trial. However, if the king is condemned to death, then you may be permitted by the Convention to make an impassioned appeal for this life.

**Girondin Deputy and Convention President: Marie-Jean Hérault de Séchelles**

You will be the presiding president of the Convention for the opening session when the deputies debate whether the king should be tried and judged. You will conduct this session by allowing deputies to speak either for or against the former king’s prosecution, especially concentrating on the provision of the Constitution of 1791 that said the king was inviolable and safe from prosecution. You will instruct deputies who wish to speak to write their name on a piece of paper and put it in the urn in front of the convention president’s platform. You ask the convention clerk, Chambon, to draw names and instruct the deputies to come forward to make their formal speeches. Depending on time limitations, you may either allow deputies to make brief uninterrupted speeches or permit presentations followed by open debate. You should preside over this opening session much as a judge would conduct a grand jury hearing, trying to discover if there is sufficient cause for the government to bring charges against a defendant. However, you have a reputation for arrogance, so feel free to be domineering.

Specifically, you will:

1. Call the delegates to order on the first day of the preliminary hearings, November 6, 1792. You will first ask Citizen Dufriche-Valazé to make a report to the Convention on behalf of the

Committee of Twenty-Four regarding the king's alleged crimes. Next, you will request Citizen Mailhe to make a statement regarding the Convention's authority to try the former king. Finally, you will open the Convention for general speeches and debate. It will be your job as president to determine the order of speeches and the agenda, and to rule on all questions of procedure.

2. On the second day, you will allow speeches and debate to continue. Citizen Roland will undoubtedly announce that he has discovered a secret iron chest in the former king's chambers at the Tuileries Palace containing many incriminating documents. Finally, Citizen Robespierre will end this day by calling for the king's immediate execution without a formal trial.
3. You should have a hat in front of you at each session. If you put your hat on your head, that is a signal that the Convention meeting is suspended either to end that particular session or to restore order in the Convention. This procedure is similar to a judge banging a gavel in a modern courtroom.

### **Girondin Deputy and Convention President: Bertrand Barère**

You are a charming and gregarious lawyer and journalist with a reputation as an eloquent speaker. Your newspaper, *Point du Jour*, appeared daily during the first twenty-eight months of the Revolution. You are the recognized leader of the uncommitted majority of deputies in the Convention (called the Plain), and will argue in the first session that the deputies must decide the fate of the monarchy, not pass it off in a cowardly way to some future group of legislators. You fear that this could result in anarchy or civil war. You believe that every delegate in the Convention, whether a Jacobin or Girondin, is dedicated to the principles of republicanism. You believe that by judging Louis Capet—and making him the last French king—the National Convention will become famous. Secretly, however, you hope to profit politically from the power struggle between the Girondins and the Jacobins.

You will be the presiding president of the Convention when Citizen Robert Lindet introduces his report about the contents of the iron chest and the alleged incriminating documents therein. Like the earlier convention president, Séchelles, you should preside over the session like a judge conducting a grand jury, trying to determine if there is sufficient evidence to hold a formal trial. After Lindet finishes his presentation, the defendant, Louis Capet, will be called to answer questions posed by the deputies. You will deliberately insult the former king by not allowing him to be seated until you give him permission. Before Louis's questioning begins, you will remind the deputies that the eyes of Europe and posterity are upon them. After Louis has responded to all the questions posed by the deputies, you should tell him to seek willing attorneys and to have them prepare his formal defense before the entire National Convention.

### **Girondin Deputy and Convention President: Pierre Vergniaud**

You are a quiet, withdrawn, and scholarly man of thirty-eight, often seeming to be in a dream world and reluctant to speak. You like good friends, good conversation, and lots of leisure time. Despite these personal characteristics, you are a brilliant orator whose speaking ability was so respected that you were elected convention president for the final phase of the king's trial. During the debate over the king's inviolability, you will argue that the Convention had no right to take over the authority that rightly belonged to the people. You will say that, logically, all the regional assemblies that had sent deputies to the Convention should be reconvened to



determine the king's fate. This was the only way the Convention could be sure it was not violating the will of the people.

Despite your belief of the king's protection under the law, you are suspicious of the other members of his family—especially his Austrian wife, Marie Antoinette. You said on April 29, 1792, that terror and dread have often come forth from this place—the Tuileries Palace—and let all those who still live there know that the king alone is inviolate. You believe that the law will overtake the guilty who have hidden there so that there is not a single head that, once found guilty of crime, will escape the guillotine's deadly blade.

You will begin the last phase of the king's trial by asking his defense counsel—de Sèze, Malesherbes, and Tronchet—to make Louis's formal defense speech before the deputies. In all likelihood, de Sèze will make the speech. When he has concluded his remarks, you should advise the deputies that they can either conduct further debate or consider an immediate verdict.

Undoubtedly, there will be a motion (that you will accept) to conclude debate and move to a vote on his fate. You will advise the deputies that they can vote for one of the following options:

- (A) He is guilty, and we should decide his fate.
- (B) The decision regarding his guilt or innocence should be referred to the people.

If option A is selected, then you will ask the deputies to vote on one of three punishments:

- (A) Death by guillotine
- (B) Exile
- (C) Life in prison

### Convention Clerk: Nicolas Chambon de Montaux

You will be responsible for assisting the convention president in running the trial. In reality, at the time of Louis's trial, you were the mayor of Paris, charged with the responsibility of making sure that the former king was escorted safely to the Convention from Temple Prison, and preventing any escape or royalist rescue attempt.

You will specifically be responsible for the following:

1. Selecting speaker names from the urn at the convention president's dais at the pretrial session and handing them to the convention president
2. Reading out loud to the Convention any documents the convention president wants all the deputies to hear
3. Escorting Louis into the Convention Hall and making sure he does not escape
4. Tallying the votes. In all issues regarding deputy voting, majority will rule
5. If requested by the convention president, escorting any unruly deputy or spectator out of the Convention Hall
6. To the best of your ability, keeping a written diary of the events including speakers, what they said, documents entered as evidence, and the decisions made by the Convention

**Convention Bailiff: Antoine-Joseph Santerre**

You will be responsible for assisting the convention president and the convention clerk in running the trial and pretrial session. You were a distinguished Parisian doctor, commander of the Paris national guard, and (secretly) a Girondin sympathizer.

You will specifically be responsible for the following:

1. Helping the clerk escort Louis Capet into the Convention and making sure that he does not escape or is harmed by anyone
2. Assisting the convention clerk in escorting any unruly deputy or spectator out of the Convention Hall
3. Guarding the Convention Hall against any possible plots by royalists to harm any of the deputies or to rescue the former king

**Defense Counsel: Raymond de Sèze**

You are the youngest member of Louis Capet's defense team that also includes two elderly and distinguished attorneys: Guillaume-Chrétien de Lamoignon de Malesherbes and François-Denis Tronchet. You are a lawyer from the Bordeaux region of France with a reputation for being a brilliant speaker with a powerful voice. You will be the former king's lead attorney and will be primarily responsible for writing and delivering Louis's defense speech. You will describe Louis as a monarch who, when he assumed the throne, dedicated himself to improving the living conditions for all French citizens. Unfortunately, a number of unforeseen economic events made that task enormously difficult. You will point out that he even gave help to the Americans who were trying to win their independence from England. The French navy is credited with allowing General Washington to win the most decisive victory of the American Revolution at the Battle of Yorktown. You will try to convince the deputies that the French constitution of 1791 did not allow for the king to be prosecuted for any alleged crime. Louis had never formerly abdicated the throne under the terms defined in the Constitution, so he was technically inviolate and immune from prosecution. He certainly could not be tried for actions for which he had already paid the price of being forced to abdicate the throne.

You should focus on each specific alleged crime mentioned by the deputies in their speeches and debates. You should show how the king's actions were not treasonous or criminal, but merely legal responses to threatening intimidation. For example, on August 10, he had simply defended himself and his family—with the full agreement of the municipal and departmental authorities and with the help of the national guard—against an armed insurrection. In fact, he avoided bloodshed by submitting before a shot was fired. You might even say, "Citizens, if at this very moment you were told that an excited and armed crowd were marching against you with no respect for your character as sacred legislators, what would you do? You accuse him of shedding blood. Ah! He mourns the fatal catastrophe as much as you. It is the deepest wound inflicted on him, his most terrible despair. He knows very well that he has not been the author of blood shed though he had perhaps been the cause of it. He will never forgive himself for this."

Your defense should center on two major actions: a legal debate to prove that the king's trial was unconstitutional, and a refutation of each of the specific items listed in the charges. Louis certainly made mistakes, and even showed occasional lack of good judgment, you will argue, but he conformed to the laws of France and behaved strictly out of the best of intentions. You should

conclude by reminding the deputies of how their actions will go down in history by saying, “Think how it will judge your judgement. Can the king’s accusers be both his judge and jury?”

### Defense Counsel: Guillaume-Chrétien de Lamoignon de Malesherbes

You are a tough but compassionate seventy-two-year-old lawyer who had been a member of the Conseil du Roi (the King’s Council) prior to the Revolution. You were a friend and patron of many Enlightenment writers like Rousseau and Voltaire. The king trusts you and wants you to help lead-attorney Raymond de Sèze prepare his formal defense. Louis has told you that he wants his defense to focus on his inviolability under the Constitution of 1791 and his overall behavior while he was a constitutional monarch. You realize that defending Louis Capet during these troubled times is risky, but you also believe it’s the honorable thing to do. You believe that in 1774, everyone envied your good fortune to be serving the royal family and now, in 1792, many people find it dangerous. You believe it is your duty to serve him. You will work closely with Louis’s other two defense attorneys, Raymond de Sèze and François-Denis Tronchet. However, because of his excellent oratorical skills, you will likely allow Raymond de Sèze to be the principle speaker.

### Defense Counsel: François Denis Tronchet

You are a sixty-one-year-old lawyer who had a long and successful career before the beginning of the Revolution in 1789, primarily serving wealthy nobles. You had a seat in the National Assembly, where you served with distinction on the important judicial committee that was responsible for the formulation of a new criminal code in 1791. You are neither a radical nor a royalist, but rather a moderate who preferred retirement to the politically charged atmosphere of the times. You realize that defending Louis Capet during these troubled times is risky, but you believe it is the honorable thing to do. However, when you agreed to join Louis’s defense team, you carefully signed your acceptance letter as the republican François Denis Tronchet. You will work closely with Louis’s other two defense attorneys, Raymond de Sèze and Lamoignon de Malesherbes. However, because of his excellent oratorical skills, you will likely allow de Sèze to be the principle speaker.

## Girondin Deputies

### Jacques Pierre Brissot

Shortly before the beginning of the Revolution in 1789, you abandoned your law profession and became a journalist. You have a vivid imagination and have written several pamphlets and numerous newspaper articles for well-known Parisian papers like the *Mercure de France* and the *Courrier de l’Europe*. Prior to the Revolution, your articles often got you in trouble with the government. You were even briefly imprisoned in the infamous Bastille. In fact, you were ceremoniously awarded the keys to that prison after it was destroyed in 1789. You are currently the editor of the revolutionary paper *Patriote Français*—one of the most popular papers in Paris—especially among the *sans-culottes* (common people). Intelligent, honest, loyal, and dedicated to the principles of the Revolution, you are the most important of the Girondin deputies. You were instrumental in promoting war against the foreign powers threatening revolutionary France. You reasoned that war would rally all Frenchmen around *patrie* (the love of country). This policy has brought you into direct conflict with the leader of the Jacobins, Robespierre. You believe

that the rank of king should be abolished, but you do not think it is necessary to execute Louis. You believe that no true republican thinks that in order to set twenty-five million men free, one man—like the former king—must die. Additionally, your political group, the Girondins, are involved in an intense political struggle with the Jacobins, and acquittal of the former king might prove to be a blessing in disguise. Privately, you were heard referring to the Jacobins as ambitious and dangerous to the country. You will try to prove in your speeches that the Convention is the just and proper place to try Louis Capet, but he is not guilty of treason. However, if Louis Capet is found guilty of treason, you should argue against sending him to the guillotine, suggesting imprisonment or exile instead.

**Maximin Isnard**

You are a merchant and have served as a deputy throughout the Revolution, first in the National Assembly and now in the Convention. Despite your political association with the Girondins, you believe, along with the Jacobins, that Louis is guilty of treason and should be tried by the Convention and condemned to death. You believe that, in 1789, Louis XVI prevented representatives of the people from meeting by ordering his soldiers to drive them from their assembly, forcing them to meet in a local tennis court. The former king also opposed the formation of the National Assembly by surrounding it with royal troops and ordering the legislators to disperse. King Louis XVI ordered royal soldiers to massacre innocent victims at the Tuileries Palace on July 12, 1789, and caused an army to march against the citizens of Paris on July 14. He also conspired with nobles to massacre innocent French citizens. He caused their blood to flow.

**Charles Eléonor Dufriche-Valazé**

You are a lawyer and chairman of the Commission of Twenty-Four, a committee appointed by the Convention to investigate the alleged crimes of former king Louis XVI against the French people. You will work closely with the other members of your commission, including Robert Lindet and Jean-Baptiste Mailhe. Your committee examined all the documents found in the Tuileries Palace including the contents of the iron chest—the king’s secret safe found in his private room by Jean-Marie Roland—and sacks of official papers.

Prior to Louis’s trial, you will be expected to make a full report to the Convention about the mass of incriminating evidence your committee has uncovered. This evidence may include details of royal payments to emigrant nobles and their families from the government treasury. You may also have evidence of secret royal payments to the “non-juring” priests. You may have details of the expenses and planning of the king’s escape attempt. You should also reveal any documents that show Louis’s involvement in counterrevolutionary activities. Some of this evidence may be available from the convention president. Otherwise, it will be your task to research these events and present the evidence. You will specifically mention the following as examples of his criminal behavior:

- In 1789, he directly opposed the creation of freely formed parliaments until the fall of the Bastille forced him to conform.
- Louis repeatedly vetoed revolutionary legislation and organized threatening bodies of soldiers until the events of October 5, 1789, forced him to surrender.
- Throughout 1790, he carried on counterrevolutionary intrigue through the traitor Mirabeau and his agents.

- In 1791, he agreed to the new constitution while actively planning an escape from the country.
- He knew about the Champ de Mars Massacre and condoned the Declaration of Pillnitz.
- He encouraged numerous counterrevolutionary activities.
- In 1792, Louis allowed his ministers to neglect the army and navy, and helped the foreign invasion of France by vetoing measures to strengthen the army and navy.
- He organized the coup of August 10, and deceitfully plotted to overthrow the very constitution he had used as a cover for his counterrevolutionary activities.

For proof, you used many of the documents found in the iron chest uncovered by Roland and handed over to your commission for analysis. Some of these documents may be available as exhibits from the convention president, otherwise it will be your responsibility to research the evidence.

### Jean-Baptiste Robert Lindet

You are a former deputy of the National Assembly and former mayor of the Gironde town of Bernay. However, your views usually match the extremist views of the Jacobins. You were appointed by the Convention to draw up the final indictment against Louis Capet on behalf of the Commission of Twenty-Four, a committee organized to investigate the king's alleged crimes. You will work closely with the other members of this committee, including Jean-Baptiste Mailhe and Charles Dufriche-Valazé. You will present Louis's actions as a series of incontestable crimes against the people of France. You will portray the former king's conduct as deliberately deceitful, willfully treasonous, and inexcusably violent. You will specifically mention the following as examples of his criminal behavior:

- In 1789, he directly opposed the creation of freely formed parliaments until the fall of the Bastille forced him to conform.
- He repeatedly vetoed revolutionary legislation and organized threatening bodies of soldiers until the events of October 5, 1789, forced him to surrender.
- Throughout 1790, he carried on counterrevolutionary intrigue through the traitor Mirabeau and his agents.
- In 1791, he agreed to the new constitution while actively planning an escape from the country.
- He knew about the Champ de Mars Massacre and condoned the Declaration of Pillnitz.
- In 1792, he allowed his ministers to neglect the army and navy, and helped the foreign invasion of France by vetoing measures to strengthen the army and navy.
- He organized the coup of August 10, and deceitfully plotted to overthrow the very constitution he had used as a cover for his counterrevolutionary activities.

For proof of his treasonous actions, you used many of the documents found in the iron chest uncovered by Roland and handed over to your commission for analysis. Some of these documents may be available as exhibits from the convention president, otherwise it will be your responsibility to research the evidence.



**Jean-Baptiste Mailhe**

You are a clever and ambitious lawyer appointed by the Convention to serve on the Commission of Twenty-Four to investigate whether the king should be put on trial for treason and other crimes against the French people. You have a reputation for having a fine legal mind, and will work closely with other Girondin deputies, including Brissot, Charles Dufriche-Valazé, and Robert Lindet.

You will present a report as to whether Louis can legally be tried by the Convention. He was considered inviolable by the Constitution of 1791. Also, if he were to be found guilty of treason, did the Convention have the authority to condemn him to death?

First, Louis's defenders will undoubtedly point out that the Constitution specifically listed some crimes for which the king could, in theory, face prosecution. These "crimes" included encouraging armed rebellion and attempting to flee the country. You will point out that his only penalty for these offenses was "abdication of the throne," and Louis had already been forced to abdicate. Second, they will argue that Louis can only be tried for alleged crimes as an average citizen—Louis Capet, not Louis XVI. Since Louis Capet had been in jail in the Temple Prison since his abdication, how could he have committed any crimes?

You will counter their arguments by saying that the king's alleged inviolability was a technicality that cannot free him from responsibility. The Convention deputies must recognize "common sense" rather than "judicial propriety." They are representatives of the French people and should not be bound by constitutional limitations. The sovereign people of France, through their elected representatives, should recognize no "royal privileges" of immunity to prosecution. You will argue that Louis's immunity was a privilege granted by the people, and what had been granted could be taken away. The National Convention, in its capacity as ruling body of France must be the appropriate court, and each deputy must be responsible for the verdict by individual direct vote.

If Louis is found guilty of treason, you will vote for the death penalty, but you may decide to surprise the Convention deputies by introducing a motion that his execution should be delayed for an indefinite amount of time—perhaps hoping for a reprieve at a later date.

**Jean-Marie Roland**

You are a forty-seven-year-old, energetic, and ambitious deputy associated with the Girondins. You became a government minister in March 1792 and later a deputy to the Convention. You have a cold, somber appearance accented by the fact that you always wear a black hat. You received information from the royal locksmith about the existence of a secret safe in the king's private room at the Tuileries Palace. He had been commissioned to construct this *armoire de fer* (iron chest) by the king sometime in May 1792. You will reveal to the Convention deputies that the information discovered in the *armoire de fer* would conclusively prove that Louis plotted treason with emigrant nobles and other influential people. You will also imply that some of the documents would somehow compromise some Jacobin deputies in the Convention. However, these deputies may accuse you of deliberately modifying the evidence for political reasons.

Specifically, the iron chest was found to contain a mass of private papers including documents related to the king's escape attempt, letters showing counterrevolutionary activities with Comte de Mirabeau, royalist propaganda literature, and suggestions about how to bribe convention deputies and other government officials.

You are convinced that what you have found is sufficient to prove Louis guilty of counterrevolutionary activities and treason. You will especially try to prove, in your speeches and debates before the Convention, that the Convention is the just and proper place to try Louis and that he is guilty of treason, mentioning the fact that he plotted counterrevolutionary activities in Paris and the provinces with the traitor Mirabeau. On June 21, Louis illegally fled Paris with his family in disguise, using a false passport. Louis financed pamphlets and other propaganda aimed at making citizens commit counterrevolutionary actions. He signed the new constitution on September 28, 1791, but worked secretly to destroy it. Louis attempted to bribe members of the National Assembly and other influential leaders to conduct counterrevolutionary activities.

## Jacobin Deputies

### Camille Desmoulins

When the Revolution started, you went into journalism and politics, becoming a member of the National Assembly and the Convention. Your paper, the *Vieux Cordelier*, and other radical pamphlets brilliantly supported the extremist views popular with many leaders from the Jacobin Club. You believe, along with other members of the radical Jacobin Club, that Louis is a tyrant. He should be tried by the Convention, convicted, and executed. You will especially try to prove in your speeches and debates before the Convention that the Convention is the just and proper place to try Louis XVI and that he is guilty of treason. Mention that, in 1789, Louis prevented representatives of the people from meeting by ordering his soldiers to drive them from their assembly hall. Louis opposed the formation of the National Assembly by surrounding it with royal troops and ordering the legislators to disperse. He ordered royal soldiers to massacre innocent victims at the Tuileries on July 12, 1789, causing an army to march against the citizens of Paris on July 14. Louis had to be forced to acknowledge the Declaration of the Rights of Man and he plotted counterrevolutionary activities in Paris and the provinces with the traitor Mirabeau.

### Louis Antoine Léon de Saint-Just

You are a twenty-five-year-old lawyer and the youngest deputy in the Convention. In 1789, you abandoned your legal career and began to write. The events of 1789, like the Tennis Court Oath and the fall of the Bastille, were an inspiration. In your letter *Esprit de la Revolution et de la Constitution de France* you argued that the new constitution was an important step, but the people of France were still not free. You think that ridding the country of the monarchy will be an important step in reaching that goal. You believe that Louis XVI is a tyrant and should be executed immediately. In your words, “one cannot reign innocently” and “if he is innocent the people are guilty.” You believe that the Revolution will only truly begin when Louis is sent to the guillotine.

You will especially try to prove in your speeches and debates that the Convention is the just and proper place to try Louis XVI and that Louis is guilty of treason. Mention the charges that Louis ordered royal soldiers to massacre innocent victims at the Tuileries on July 12, 1789, and caused an army to march against the citizens of Paris on July 14.

He was part of a conspiracy to massacre innocent French citizens, and he caused their blood to flow. On September 28, 1791, Louis willingly signed the new constitution but worked secretly to destroy it. He accepted the Brunswick Manifesto of July 25, 1792, hoping to regain the throne of France. Louis vetoed all measures to reinforce the French army, hoping the country would be

defeated by foreign powers and he would be returned as an absolute monarch. Finally, Louis bribed members of the National Assembly and other influential leaders to conduct counter-revolutionary activities.

### Abbé Emmanuel Joseph Sieyès

You are a quiet and austere forty-year-old Catholic priest. You were forced into a clerical life by your intensely pious parents. You were ordained a priest in 1773 and moved quickly up the church hierarchy, becoming the chancellor of the Diocese of Chartres and a member of the Provincial Assembly of Orleans. You are a weak orator but an excellent writer—the master of *le mot juste* (the exact words that describe a policy). You made your fame at the beginning of the Revolution with a pamphlet titled *What is the Third Estate?* You are passionately interested in the creation of a perfect system of government. Despite your poor speaking ability, you have participated in many of the Jacobin Club debates. You believe, along with other members of the Jacobin Club, that Louis is a tyrant. He should be tried by the Convention, convicted, and executed. You will especially try to prove in your speeches and debates before the Convention that (a) the Convention is the just and proper place to try Louis XVI, and (b) Louis is guilty of treason. Specifically, he was part of a conspiracy to massacre French citizens, and he caused their blood to flow. On September 28, 1791, he signed the new Constitution but secretly worked to destroy it. He accepted the Brunswick Manifesto of July 25, 1792, hoping to regain the throne of France. He secretly encouraged his own brothers to raise armies of emigrant nobles to attack France and restore him to the throne. He vetoed all measures to reinforce the French army, hoping the country would be defeated by foreign powers and he would be returned as an absolute monarch. He attempted to destroy the French navy by secretly encouraging officers and sailors to desert.

### Maximilien François Marie Isidore de Robespierre

You are a cold and dispassionate lawyer, suspicious of ridicule and consumed by ambition. Called by some The Incorruptible, you were a member of the National Assembly and the Convention, and the acknowledged leader of the Jacobin Club. You spoke at the club nearly one hundred times prior to the king's trial. You seem to have formed a friendship with the young Jacobin deputy Louis Antoine De Saint-Just. Both of you believe, like the philosopher Jean-Jacques Rousseau, that moral virtue should be inseparable from the exercise of sovereignty.

Despite having a weak speaking voice, you are able to compose solemn, carefully worded speeches showing complete mastery of revolutionary politics. You made it your particular mission in the autumn of 1791 to oppose the Girondist attempts to involve the country in war against Austria and Prussia. Your chief rival for power in the Convention is the Girondin leader Jacques Pierre Brissot. You are opposed to any kind of trial for the king, saying to your fellow members in the Convention that “the king is not a defendant and you are not judges.” You do not have to decide if the king is innocent or guilty. You believe that the proposal that the king be tried at all, by whatever means, is counterrevolutionary because it puts the revolution itself on trial. You believe that Louis should be executed immediately, without a trial, because you do not recognize a humanity that massacres the people and pardons despots.

If you are not successful in convincing the Convention to execute the king without any kind of trial, then you should try to prove in your speeches and debates that Louis is guilty of treason for plotting counterrevolutionary activities in Paris and the provinces with the traitor Mirabeau. Louis was also part of a conspiracy to massacre innocent French citizens, causing their blood



to flow. You believe that on September 28, 1791, Louis signed the new constitution but secretly worked to destroy it. He encouraged his brothers to raise armies of emigrant nobles to attack France and restore him to the throne, and he vetoed all measures to reinforce the French army, hoping the country would be defeated by foreign powers and he would be returned as an absolute monarch.

### Georges Jacques Danton

You are a lawyer, one of the founding members of the Cordeliers Club, and a frequent speaker at the Jacobin Club. You are a powerful orator, a born leader, and also one of the best classical scholars of the Revolution. You have a large book collection, including works in French, English, and Italian. You are quite capable of discussing politics in English with the expatriate Tom Paine, military strategy in French with Charles Marquis de Castries, or Roman art in Italian with your mother-in-law, Madame Charpentier. Despite your obvious intellectual, linguistic, and cultural attributes, you are also a bit of a ruffian. The common people love you. You have an ingenuous flair for improvisation. When France was invaded by Prussia and Austria early in 1792, you were a leading figure in the defense of Paris.

You believe that the king was not entirely blameless in his actions, but it might be useful to the nation to get him out of the situation without a trial. You privately admitted to a friend, the Comte de Lameth, that you hoped the king would be freed, but you will condemn him if you have to because you don't want your head to fall with his. You played no actual part in the opening sessions since you had been sent by the Convention on a diplomatic mission to Belgium. You returned in time to cast your vote regarding his guilt or innocence. If Louis is condemned, you will say, when casting your vote for death, that the only place to strike a king is on the head—he should be sent to the guillotine. You believe Louis is guilty of treason because of the fact that he ordered royal soldiers to massacre innocent victims at the Tuileries on July 12, 1789, and caused an army to march against the citizens of Paris on July 14. He was part of a conspiracy to massacre French citizens, causing their blood to flow. Louis accepted the Brunswick Manifesto of July 25, 1792, hoping to regain the throne of France, and he vetoed all measures to reinforce the French army, hoping the country would be defeated by foreign powers and he would be returned as an absolute monarch.

### Jacques-Nicolas Billaud-Varenne

You are a member of the Jacobin Club. As deputy commissioner of the Paris Commune, you made a tour of the city's prisons during the September Massacres in 1792, encouraging the murderers by telling them they were killing the enemies of the people of France. You are convinced that Louis is a tyrant and should be tried and condemned by the Convention deputies. You will especially try to prove in your speeches that the Convention is the just and proper place to try Louis, and that he was part of a conspiracy to massacre innocent French citizens, causing their blood to flow. You believe that Louis signed the new constitution in 1791 but secretly worked to destroy it. He vetoed all measures to reinforce the French army, hoping the country would be defeated by foreign powers and he would be returned as an absolute monarch. He also attempted to bribe members of the government and other influential people to conduct counterrevolutionary activities.

**Jean-Paul Marat**

At the age of forty-nine, you are one of the Convention's oldest and most influential delegates. You have a particular hatred for the aristocrats whom you feel are still plotting to destroy the Revolution. Before 1789 and the calling of the Estates-General, you were a scientist and a physician. You made a medical reputation working remarkable cures by means of a secret potion called *l'eau factice anti-pulmonique*, which proved, on closer inspection, to be merely chalk and water. After the fall of the Bastille in 1789, you abandoned medicine and became a democratic journalist. Your first publication was titled *L'ami du Peuple*. It was very popular with the *sans-culottes* (common people), who shared your intense hostility for the *bourgeois* (middle-class) revolutionaries. Many were attracted by your often bloodthirsty articles demanding widespread executions. In order to ensure public tranquility, you once declared that two hundred thousand heads must be cut off. When speaking, you often use your strong slender arms to make wide sweeping gestures. You have told friends that you only sleep two hours a day. The rest of the time is devoted to work, often while soaking in a sulfur bath. You have contracted a painful and unpleasant skin disease and need these lengthy soakings to ease your suffering.

You are one of the most radical of deputies, demanding the king's trial and execution. You are suspicious of everyone, especially the Girondin deputies. In fact, you are hopeful that the trial will even expose traitors in the Convention itself. If the king is convicted of treason, you will demand an oral vote by each of the deputies as a means of exposing any traitors that might still be supporting the monarchy. Despite your distrustful attitude, none of your fellow deputies has any doubt about either your courage or your importance. You will try to prove in your speeches and debates before the Convention that the Convention is the just and proper place to try Louis XVI and that Louis is guilty of treason. The king plotted counterrevolutionary activities in Paris and the provinces with the traitor Mirabeau, and conspired to massacre innocent French citizens, causing their blood to flow.

**Philippe Egalité**

You are a rich noble who is actually related to Louis XVI. He is your cousin. You decided to join the revolutionaries in 1791 and even changed your name from the Duke d'Orleans to Philippe Egalité. You are secretly a man consumed by ambition and would like nothing better than to be king of France. Your grand palace in Paris has become a hangout for freelance pamphleteers, journalists, and rabble-rousers who were willing to promote your interests. You realize that the correct action under the present politically dangerous environment is to side with the Jacobins against the king and his Girondin supporters. Therefore, you are prepared to claim that Louis is guilty of treason and even vote for his death.

# Charges against Louis Capet, formerly King Louis XVI

(edited)

Louis Capet,

The citizens of France and their elected representatives in the Convention accuse you of treason and attempting to destroy the liberty of the people.

1. In 1789, you prevented representatives of the people from meeting by ordering your soldiers to drive them from their assembly hall.
2. In 1789, you opposed the formation of the National Assembly by surrounding it with royal troops and ordering the legislators to disperse.
3. You ordered royal soldiers to massacre innocent victims at the Tuileries Palace on July 12, 1789, and caused an army to march against the citizens of Paris on July 14.
4. You had to be forced to acknowledge the Declaration of the Rights of Man.
5. You plotted counterrevolutionary activities in Paris and the provinces with the traitor the Comte de Mirabeau.
6. On June 21, 1791, you illegally fled Paris with your family in disguise, using a false passport.
7. You were part of a royalist conspiracy to massacre innocent French citizens, causing their blood to flow.
8. You financed pamphlets and other propaganda aimed at making citizens commit counter-revolutionary actions.
9. On September 28, 1791, you willingly signed the Constitution but worked secretly to destroy it.
10. You accepted the Brunswick Manifesto of July 25, 1792, hoping to regain the throne of France.
11. You secretly encouraged your own brothers to raise armies of emigrant nobles to attack France and restore you to the throne as an absolute monarch.
12. You vetoed all measures to reinforce the French army, hoping the country would be defeated by foreign powers and you would be returned to the throne.
13. You attempted to destroy the French navy by secretly encouraging officers and sailors to desert.
14. You bribed members of the National Assembly and other influential leaders to conduct counterrevolutionary activities.

# Script: Trial of Louis Capet

## Scene One: Should Louis Be Tried by the Delegates of the National Convention?

**NARRATOR:** It is November 6, 1792. The convention president Citizen Séchelles enters and takes his seat at the head of the legislative chamber. Chambon, the clerk-bailiff, addresses the deputies.

**CHAMBON:** Citizens—please come to order.

**SÉCHELLES:** Citizen Dufriche-Valazé, please come to the speaker platform and present to the delegates the findings of the Committee of Twenty-Four regarding the alleged crimes of Citizen Louis Capet.

**DUFRICHE-VALAZÉ:** (*Standing at the speaker platform*) Citizens, my committee has uncovered receipts and financial statements showing substantial payments, authorized by the king, to nobles who have fled France, including a huge sum of money given to the widow of the Marquis de Favras. The king also authorized secret royal payments to priests who refused to swear an oath to support the Revolution. We had also found evidence that royal subsidies were forwarded to nobles actively serving in foreign armies that even now are in the process of invading France. We have also discovered a secret iron chest in the king's chambers at the Tuileries Palace and are in the process of analyzing its contents. Citizens Roland and Lindet will soon be making a report about the contents of this safe.

**SÉCHELLES:** Citizens, I now open the floor for debate on whether we should bring the former king, now Citizen Capet, to trial. Citizen Chambon, take a name from the speakers jar.

**CHAMBON:** (*Reaches into the jar and pulls out a slip of paper with a name*) Citizen Saint-Just—you may come to the speaker platform.

**SAINT-JUST:** Citizens, the purpose of this Committee of Twenty-Four was to judge the king as a simple citizen—Louis Capet, not King Louis XVI—and I say to you that Louis Capet must be judged as an enemy. I see no middle ground. This man must either continue to reign as our king or he must die. Citizens! No one can reign innocently—the truth is too obvious—every king is a rebel and a usurper. Citizens, the tribunal that must judge Louis is not a judicial tribunal—it is a council—it is the people—it is you—and the laws that we must follow are those of the rights of the people. Louis is a foreigner among us—he was not a citizen before his many crimes. He was not a true citizen. He could not vote. He could not bear arms. He is even less of a Frenchman because of his many crimes against the people. Louis Capet must be judged as a foreign enemy of the people. We must do our duty. We must not pass off condemning him to death to the people—it is our job. Louis has waged war against the people and he has been defeated, and now he must pay the price for his treachery.

**SÉCHELLES:** M. Chambon, take another name from the speakers jar.

**CHAMBON:** (*Reaches into the jar and pulls out a slip of paper with a name*) Citizen Barère, you may come to the speaker platform.

**BARÈRE:** Citizens, we are the elected representatives of the people, and as deputies in this Convention, it is our responsibility—our duty—to decide the fate of the French monarchy. We must not pass it off, in a cowardly way, to some future group of legislators. Citizens, every one

of you in this Convention—whether Jacobin or Girondin—believe in and are dedicated to the principles of republicanism. Citizens, it is for you to vote before your people, before your country, before the whole world. It is by judging the last king of France that the National Convention will enter into the fields of fame.

**SÉCHELLES:** M. Chambon, take another name from the speakers jar.

**CHAMBON:** (*Reaches into the jar and pulls out a slip of paper with a name*) Citizen Mailhe, you may come to the speaker platform.

**MAILHE:** Citizens, Louis's defenders will undoubtedly point out that the Constitution specifically listed some crimes for which the king could, in theory, face prosecution. These treasonous crimes included encouraging armed rebellion and attempting to flee the country. They will surely point out that his only penalty for these offenses, according to the Constitution, was abdication of the throne. Since Louis has already abdicated the throne, there is nothing else we can do. Second, they will argue that Louis can only be tried for alleged crimes as an average citizen—Louis Capet—not Louis XVI. Since Louis Capet has been in jail in the Temple Prison since his abdication, how could he have committed any crimes? Citizens, I say to you that the king's alleged inviolability is a technicality that cannot free him from responsibility. We must recognize common sense rather than mere judicial propriety. We are representatives of the French people and should not be bound by constitutional limitations. The sovereign people of France—through their elected representatives—should recognize no royal privileges of immunity to prosecution. Louis's immunity was a privilege granted by the people, and what had been granted can be taken away. The National Convention—in its capacity as the ruling body of France—must be the appropriate court for trying this king for his treasonous behavior.

**SÉCHELLES:** M. Chambon, take another name from the speakers jar.

**CHAMBON:** (*Reaches into the jar and pulls out a slip of paper with a name*) Citizen Desmoulins, you may come to the speaker platform.

**DESMOULINS:** Citizens, I will be blunt. King Louis XVI was a treasonous tyrant and he should be tried by this Convention, convicted, and executed! Have you already forgotten his bloody behavior? Many of us were there, in 1789, when Louis ordered his soldiers to drive us from our meeting hall, forcing us to go to a local tennis court where we swore an oath that we would form a government that truly represented the people of France. We know that he opposed the formation of this National Assembly, surrounding it with soldiers and ordering us under pain of arrest to disperse. Citizens, do I need to remind you of how Louis ordered his soldiers to massacre innocent people at the Tuileries on July 12, 1789? Or how he caused an army to march on Paris on July 14 as the citizens of France were storming the Bastille—the prison he used to send innocent citizens into political oblivion with his unjust *lettres de cachet*? Citizens, Louis never acknowledged our Revolution and had to be forced to sign the Declaration of the Rights of Man. Finally—as you all know—Louis treasonously conspired with that royalist scoundrel—that traitor—the Comte de Mirabeau to crush the Revolution. Citizens, let us do our duty and bring this traitor to justice.

**SÉCHELLES:** We shall now hear from Citizen Roland who is prepared to discuss the secret material found in Louis's iron safe.



**ROLAND:** (*Rising*) Citizens, you heard earlier from Citizen Mailhe that our committee learned from the royal locksmith about the existence of a secret safe in the king's private room at the Tuileries Palace. He told us that he had been commissioned to construct this *armoire de fer*—this iron chest—by the king sometime in May 1792. We believe that the evidence we found in this safe conclusively proves that Louis—along with his Austrian wife, Marie Antoinette—plotted treason with emigrant nobles and other influential people. In the safe, we found a mass of private papers including documents related to the king's escape attempt: specifics of counterrevolutionary activities with the Comte de Mirabeau, royalist propaganda literature, and suggestions about how to bribe government officials and other prominent leaders of the Revolution. Also, there were a series of incriminating letters written by the king to Baron Louis Auguste Le Tonnelier de Breteuil, referring to our new constitution as absurd and detestable. Citizen Lindet will now show you some of these incriminating documents so you can judge for yourself.

**LINET:** (*Rising*) Citizens, throughout 1790, Louis actively carried on counterrevolutionary intrigue with the traitor, the Comte de Mirabeau. In 1791, he reluctantly agreed to the new constitution while actively planning an escape from the country. Louis knew full well about the massacre of innocent citizens on the Champ de Mars, and he fully condoned the Declaration of Pillnitz. While he was serving as a constitutional monarch, he deliberately vetoed legislation that would have strengthened the French army and navy, hoping that his actions would result in French defeat and his restoration to the throne as an absolute monarch. (*Holding up a copy of Document 5*) I will now share with you a signed letter that Louis wrote to the king of Prussia. (*Reads the letter out loud*). Citizens, judge for yourself the depths of this king's treason.

**ROBESPIERRE:** (*Rising*) Citizens, have we not heard enough about this king's treason—his conspiracies, his counterrevolutionary activities, his support of foreign armies, his shedding of French blood, the activities of his plotting and conspiring wife who obviously urged him to seek the help of her relatives? I say to you—fellow members of this Convention—this former king is not a defendant and you are not judges. The proposal that the king be tried at all—by whatever means—is in itself a counterrevolutionary idea because it puts the Revolution itself on trial. Citizens, I say to you that I do not recognize a humanity that massacres the people and pardons despots. Citizens, do you want a Revolution without a revolution? Louis Capet is guilty of treason, and he should be immediately sent to the guillotine.

**SÉCHELLES:** We shall stand in recess. When we next meet, we shall command that Louis Capet be brought to the Convention Hall to personally answer our questions.

## Scene Two: Louis Capet Is Questioned

**NARRATOR:** December 11, 1792. Louis Capet is questioned in front of the assembled Convention. The deputies are solemnly reminded by Citizen Barère, the new president of the Convention, that the eyes of Europe and posterity are upon them. Louis is escorted to the bar by General Santerre, where he is instructed to stand before the deputies and to answer their questions.

**PRESIDENT BARÈRE:** Louis Capet, the French nation accuses you of having committed a multitude of treasonous crimes to establish your tyranny and destroy their liberty. We, the elected deputies of the National Convention, have resolved that you need to answer our questions regarding your guilt or innocence.

**SIEYÈS:** (*Rising*) Louis Capet, as you and everyone else in this Convention knows, in 1789 I wrote an important pamphlet called *What Is the Third Estate?* in which I highlighted the fact that the majority of the people of France meant nothing and only existed to serve you—the king—the nobility, and the clergy. That same year, we tried to meet and form a new government that was truly representative of the people of France, but you prevented representatives of the people from meeting by ordering your soldiers to drive them from their assembly hall. What have you to answer?

**LOUIS:** There did not exist at that time laws that forbade me from taking that action. I was merely following the laws and traditions of my predecessors and exercising my duty as a divine right monarch.

**ISNARD:** (*Rising*) Louis, in 1789 you marched an army against the citizens of Paris causing many deaths, and you did not remove this army until the people had succeeded in capturing and destroying the hated Bastille Prison. What have you to answer?

**LOUIS:** As the king of France, I believe that I was entrusted with keeping the peace and tranquility in my realm. I believed it was my duty as the nation's sovereign leader to order my soldiers to stop a violent protest, but it was never my intention to shed blood. I gave specific instructions to try to restore order without harming anyone, but unfortunately many people were injured or killed.

**MARAT:** (*Rising, holding a copy of the Rights of Man*) Louis Capet, you refused to acknowledge the Declaration of the Rights of Man and permitted the national cockade to be stomped on by the feet of your mercenary Swiss soldiers. What have you to answer?

**LOUIS:** That is not true. I did recognize the Declaration of the Rights of Man, and I never instructed my soldiers to disrespect the national cockade. I believe that is a completely fabricated story.

**DESMOULINS:** (*Rising*) Louis Capet, you plotted counterrevolutionary activities in Paris and the provinces with the royalist traitor Mirabeau. What have you to answer?

**LOUIS:** I do not recall participating in any counterrevolutionary activities with the Comte de Mirabeau or any other royalist.

**PHILIPPE ÉGALITÉ:** (*Rising*) Louis Capet, on June 21 you illegally fled Paris with your family in disguise, using a false passport. What have you to answer?

**LOUIS:** I never recognized that I was under any formal arrest. My family and I were merely taking a trip to visit my wife's relatives in Austria. I believe I had every right to travel. We understood that there were people who intended harm to us, so we took precautions—by using disguises and leaving in the early morning.

**BRISOT:** (*Rising*) Louis Capet, after your failed escape attempt, you caused the blood of citizens to flow at a massacre on the Champ de Mars in Paris. What have you to answer?

**LOUIS:** I gave no orders regarding the violence that happened on that day. I know nothing about that event.

**VERGNIAUD:** (*Rising*) Louis Capet, you used your personal finances to sponsor pamphlets and other propaganda aimed at making citizens commit counterrevolutionary activities, and on September 28, 1791, although you willingly signed our new constitution, you worked secretly to undermine it. What have you to answer?



**LOUIS:** That is not true. I never spent money on counterrevolutionary literature. I respected the new constitution, which recognized my new role in the government as a constitutional monarch. I should also remind you that under this new constitution, in 1791 I was made inviolate to any kind of criminal prosecution. All the charges against me seem to stem from actions I have been accused of committing before I was forced to abdicate the throne. For example, under the Constitution of 1791 I had the authority to veto laws, so how could I be accused of illegally using that power?

**ROLAND:** *(Rising, holding a copy of the Brunswick Manifesto)* Louis Capet, you accepted the Brunswick Manifesto of July 25, 1792, hoping to regain your role as an absolute monarch, and you encouraged your relatives, and those of your wife, to raise armies of emigrant nobles to attack France and restore you to the throne. What have you to answer?

**LOUIS:** I do not know anything about that manifesto, and I disavowed all the conduct of foreigners aimed at restoring me to my throne.

**ROBESPIERRE:** *(Rising)* Louis Capet, you caused the blood of Frenchmen to flow. What have you to answer?

**LOUIS:** No, sir. It was not I. Every action I took was designed to maintain order.

**BRISSOT:** *(Rising)* I move that Louis Capet be given the opportunity to retain counsel to present his formal defense.

**PRESIDENT BARÈRE:** The motion is put forward. Is there a second?

**SÉCHELLES:** *(Rising)* I second the motion.

**PRESIDENT BARÈRE:** All in favor?

**NARRATOR:** There are hundreds of shouts of “oui” (aye).

**PRESIDENT BARÈRE:** Louis Capet, we request that you seek council and prepare your formal defense before the National Convention.

### Scene Three: The Defense of the King

**NARRATOR:** December 26, 1792. The Convention is called to order by the new president, Citizen Vergniaud. Accompanied by his three lawyers, Chambon, and General Santerre, Louis walks slowly to the bar.

**VERGNIAUD:** Louis, the Convention has decreed that you will be heard definitively today.

**LOUIS:** My counsels *(pointing to his attorneys)* will read you my defense.

**DE SÈZE:** *(Rising, holding a copy of the Constitution)* Citizens, representatives of the nation, the moment has come when Louis—accused in the name of the French people—can make himself listened to in the midst of the people themselves *(gesturing toward the gallery)*. Citizens, inviolability is fundamental to any monarchical government. No monarchy that denied its king legal immunity could survive and function. The Constitution of 1791, which I hold in my hand, clearly supports this principle—it says that the person of the king is inviolable and sacred. Citizens, you have the power to decide in this case, but there is a power you do not have—it is that of not being just. Citizens, I speak to you here with the frankness of a free man. I search among you for judges, but I see only accusers. You want to pronounce Louis’s fate, but it is you yourselves who accuse him! You want to pronounce Louis’s fate, but you have already declared your views! You want to pronounce Louis’s fate, but your opinions have been spread

throughout Europe! Louis has become the only French citizen for whom there exists no law and no procedures—he has neither the rights of a citizen nor the prerogatives of a king! He has the benefits of neither his former state as king of France nor his new state as Citizen Louis Capet.

**MALESHERBES:** (*Rising*) Citizens, deputies, have you forgotten that it was Louis himself who began our glorious Revolution with the calling of the Estates-General? Have you forgotten that in 1789, the people proclaimed the king the restorer of French liberty? Have you all forgotten that Louis was the first French king to voluntarily relinquish much of his power for the happiness of the people? Have you forgotten that, in purely legal terms, none of Louis's actions before his abdication of the throne in September 1791 can be included in the accusations? Your retroactive revenge on Louis is unworthy of a great and generous nation.

**TRONCHET:** (*Rising*) Citizens, the king, after 1791, did not have the power to do either great good or great evil. Louis did veto many pieces of legislation, but this was a power entrusted to him by his constitutional authority. Louis did make mistakes—he admittedly showed, on occasion, bad judgment—but he conformed to the law of the land and acted out of the best intentions. The evidence against Louis—found in the so-called iron box and other locations—provides an incomplete and misleading picture of Louis's administration, since many important documents were lost and destroyed during the invasion of the Tuileries Palace. Louis's use of public funds, for example, proves that he was a generous benefactor who wanted nothing but the improvement of living conditions for his people. When he was questioned, Louis had a perfectly legal right not to recognize incriminating documents, and his repudiation of this evidence does not make him guilty.

**DE SÈZE:** (*Rising*) I know that some of you are especially troubled by the events that transpired on August 10, 1792, wondering if Louis prepared some kind of attack on the Tuileries Palace that resulted in many deaths. Where, I ask you, is there any evidence of this treasonous act? Before Louis left the Tuileries, there had been no bloodshed. He cannot be held responsible for what happened after he left, because he was a prisoner in the Temple Prison. Citizens, the law deals with actions and not motives. A man can be tried for violating the law but not for disliking the law. Whatever Louis was thinking at the time does not matter—he is not responsible for the killings that took place at the Tuileries. Citizens, I ask you, if at this very moment one were to say to you that an excited and armed crowd was marching toward this Convention with the intent to drive you from this legislative hall—preventing you from performing your sacred duty—what would you do? You would probably do what Louis did on August 10. You accuse him of shedding blood—ah—he bemoans as much as you the fatal catastrophe of that day, but he knows very well—as should you—that he was not the author of that bloodshed. Gentlemen, Louis ascended the throne at the tender age of twenty, and at that age he gave to the throne the example of character. He brought to the throne no wicked weaknesses and no corrupting passions. He was economical, just, and severe. He showed himself always the constant friend of the people. The people wanted the abolition of servitude. He began by abolishing it on his own lands. The people asked for reforms in the criminal law and he carried out these reforms. The people wanted liberty and he gave it to them! The people themselves always came before him in his sacrifices. Nevertheless, it is in the name of these very people that some of you demand his death. Citizens, think of how history will judge your judgment through the centuries.

**VERGNIAUD:** Louis, do you have anything to add to your defense?

**LOUIS:** You have heard my defense. I will not reiterate it. In speaking to you, perhaps for the last time, I declare to you that my conscience reproaches me for nothing, and that my defenders have spoken the truth. I never believed that my conduct might be publicly examined; but my heart is torn to find in the accusations the charge of having wanted to shed the blood of the people, and above all that the unhappiness of August 10 could be attributed to me. I confess that the multiple proofs that I have given at all times of my love for the people, and the manner in which I have always conducted myself, appeared to me to prove that I had no fear in exposing myself to danger in order to spare its blood and to remove forever such an imputation.

**VERGNIAUD:** I declare this session over. Deputies, you should consider what you have heard. When next we meet, we shall decide on Louis's guilt or innocence and—if he is found to be guilty—what punishment he should receive.

**NARRATOR:** The king was taken by General Santerre and his guards to a waiting carriage and escorted back to the Temple Prison to await his fate.

#### Scene Four: The Verdict and Sentence

**NARRATOR:** Convention president Vergniaud calls the delegates to order and instructs them to decide the fate of Louis Capet and explain their decision.

**PRESIDENT VERGNIAUD:** *(Rising)* Citizens, deputies, we now face the momentous task of deciding what to do with Louis Capet—formerly King Louis XVI. You must vote on whether you find him guilty or not guilty of treason and other crimes against the nation. If you vote that he is guilty, then you must also recommend what punishment he should receive—exile, life in prison, or death by guillotine.

**BILLAUD-VARENNE:** *(Rising)* Citizens, as you all know, I was the deputy commissioner of the Paris Commune when the prisons of Paris were attacked by our citizens who realized that the criminals needed to die immediately. I encouraged them to do their duty—to slay these enemies of the people. In a similar fashion, I ask all of you to do your duty and to find Louis guilty of treason, of conspiring against the people, of conducting numerous documented counterrevolutionary activities, and of shedding the sacred blood of the people. Louis is guilty of these crimes and should be sent to the guillotine immediately.

**BRISSET:** *(Rising)* Louis Capet, I believe that this National Convention gave you a fair and just trial, and that you are a truly negligent monarch who deserves to be punished in some form for the harm that you and your predecessors inflicted on France by your autocratic rule. I do not think that any true republican will ever be brought to believe that in order to set twenty-five million men free, one man must die. We find you guilty but believe it would be in the best interests of the nation if you were exiled from France—never to return.

**ISNARD:** *(Rising)* Citizens, I have served the nation throughout our glorious Revolution, first as a deputy in the calling of the Estates-General in 1789, later as a representative in the National Assembly, and now as a member of the National Convention. I helped draft the Constitution of 1791 and I know that, although we added the provision of inviolability of the king, it was never intended to give Louis a free pass to undermine the government, to traitorously conspire with foreigners, and to shed the blood of our fellow citizens. Louis showed his true colors in 1789 by using his soldiers to block the attempts of the people to form a government that would benefit all the people of France. He is guilty and should be condemned to death by guillotine.

**DUFRICHE-VALAZÉ:** *(Rising)* Citizens, earlier, as chairmen of the Commission of Twenty-Four, I presented you all with conclusive evidence of Louis's treasonous actions from documents we uncovered in an iron safe found in his apartments in the Tuileries Palace. These counterrevolutionary papers dramatically proved the extent to which this despot was willing to go to restore himself to the throne of France as an absolute monarch. Especially treacherous were his subsidies to émigrés and foreign leaders who are, even as we speak, trying to destroy our government. Louis is guilty and should be condemned to death immediately.

**LINDET:** *(Rising)* Louis Capet, in 1789 you directly opposed the creation of freely formed parliaments until the fall of the hated Bastille forced you to conform. You repeatedly vetoed revolutionary legislation and organized threatening bodies of mercenary soldiers to attack the citizens of France, causing their blood to flow. Throughout 1790, you plotted counterrevolutionary intrigue with the traitor Mirabeau and other émigré nobles. In 1791, you agreed to the new constitution while actively planning an escape from France. You organized the bloody violence of August 10, 1792, causing much French blood to flow and plotted to overthrow the constitution you had used as a cover for your counterrevolutionary activities. For all these crimes, I find you guilty and I recommend that you should be condemned to death by guillotine.

**MAILHE:** *(Rising)* Louis Capet, I agree that your activities, your deceits, your letters, and encouragement to émigrés and foreigners to invade France and put down the revolution all bear blunt testimony to your treason. I agree you are guilty, however I believe it would be in the best interest of the nation if we delayed your execution by guillotine until we have heard how the people feel about the decision to put you to death.

**DESMOULINS:** *(Rising)* Louis Capet, you are a traitor to the nation! You ordered your bloodthirsty soldiers to massacre innocent French citizens at the Tuileries on July 12, 1789, and caused an army to march against the citizens of Paris on July 14 of that same year—the day we tore down your symbol of oppression, the Bastille. You know very well that we had to force you to sign the Declaration of the Rights of Man, and that you actively plotted and conspired with émigré nobles and the traitor Mirabeau in both Paris and the countryside to undermine the revolution, hoping that you would be restored to your throne as an absolute king. I find you guilty, and you should be sentenced to death by guillotine for all your horrid crimes, especially your treason and the spilling of the innocent blood of French citizens.

**SAINT-JUST:** *(Rising)* Citizens, the Constitution of 1791 that many of us worked on was an important step in our revolution, but the people of France are still not free. We need to rid ourselves once and for all of the evil of monarchical power—the power that caused the blood of French citizens to flow on many occasions, including as recently as August 10, 1792, and the power that was used to veto legislation, fund foreign invasions, conspire with émigré nobles, and even bribe members of this Convention. Louis Capet—formerly Louis XVI—is a treasonous tyrant and should be convicted and executed immediately! Citizens, one cannot reign innocently, and if he is innocent then the people are guilty. Our revolution will only truly commence when the head of the tyrant falls bleeding under the blade of the guillotine. Since Louis XVI was the enemy of the people, of its liberty and happiness, I vote for death.

**ROBESPIERRE:** (*Rising*) Citizens, do you want a Revolution without a revolution? Virtue is inseparable from the exercise of sovereignty. I do not recognize a humanity that massacres the people and pardons despots. The evidence is undisputable that Louis plotted counterrevolutionary activities with the traitor Mirabeau, his Austrian wife Marie Antoinette, and émigrés intent on crushing our revolution and reinstalling him as an absolute ruler. He reluctantly signed the constitution that we framed in 1791, but worked secretly to undermine it by vetoing legislation that would benefit the people and especially our army and navy that was desperately trying to prevent foreign invaders from destroying our liberty. We should afford no mercy to this man who willingly shed the blood of innocent citizens of France. He should be sent to the guillotine immediately.

**SIEYÈS:** (*Rising*) Louis Capet, despite your denials, you are a traitor to our nation, and I believe that you conspired with your soldiers and other counterrevolutionaries to massacre French citizens, causing their blood to flow. You only signed the new constitution in 1791 because you were forced to do so, and every action you took—including vetoing measures like the strengthening of the army and navy—was calculated to weaken the nation, inviting foreign invasion in the hopes of restoring you to the throne as an absolute ruler. I find you guilty, and believe that you should forfeit your life by having your head struck from your body by the guillotine.

**DANTON:** (*Rising*) Louis Capet, you are certainly not blameless in your behavior toward the Revolution, as you and your lawyers would have us believe. You are certainly not inviolate. No French citizen, be they ex-king or commoner, should be free of the law. Fellow deputies, although Louis caused the blood of French citizens to flow—on many occasions—and he and his family tried to flee the country, it might be useful to the nation—to the progress of the Revolution—to get him out of this situation. Maybe he could become an advantageous bargaining chip with other nations who are even now continuing to threaten our borders. That being said—citizens, he is guilty of treason, and I believe the only place to strike a king is on the head. If he is to be punished, he should be sent to the guillotine.

**MARAT:** (*Rising*) Louis Capet, you caused the blood of innocent French citizens to flow in the streets like water. You are a traitor and you conspired with other traitors like Mirabeau to try to put down the Revolution. I am glad that the Convention president has insisted that each deputy must vote orally about whether you are guilty or innocent because (*looking around at the other deputies*) I believe that you may have conspired with or even bribed some of those very deputies, and I intend to look closely at any deputy who might find you innocent or even suggest a lesser penalty than death. You should be sent to the guillotine as soon as possible.

**ROLAND:** (*Rising*) Citizens, I, along with others on the Committee of Twenty-Four, thoroughly examined the incriminating documents that we discovered in Louis's iron safe. One letter referred to our constitution as absurd and detestable. Other documents spoke about his escape attempt and the treacherous activities he and his wife, Marie Antoinette, were conducting with foreigners and émigrés who were determined to crush our revolution. Citizens, there is no doubt that he is guilty and should be condemned to death by guillotine.

**PHILIPPE ÉGALITÉ:** (*Rising*) Citizens, you all know that Louis is my cousin. I willingly renounced my noble status as the Duc d'Orleans because of my love of the people and support of the Revolution. I even changed my name to Philippe Egalité. However, it is with a heavy heart that I have to acknowledge the guilt of this former king. The facts of his treachery are clear—his willingness to use force against the people, his efforts to undermine the government, and his attempts to enlist foreign help, especially from our enemies in Austria and Prussia, to put him



back into power as an absolute monarch. He is guilty, and I must do my duty. I am convinced that all those who have attacked or will attack the sovereignty of the people deserve death. I vote for death.

**BARÈRE:** (*Rising*) Citizens, I am glad that we have reached this point in our resolve to deal with this former king, and that we did not decide to cowardly pass off the decision to some future group of legislators. I believe this could lead to anarchy or civil war. Every one of you—whether you attend meetings at the Jacobin Club or identify with the Gironde—every one of you, I know, is dedicated to the principle of republicanism. It is by judging this last king of the French that this National Convention will enter into the fields of fame and glory. I presided as president over the Convention during the questioning of this former king, and I found his answers evasive and untruthful. The incredible amount of incriminating papers—especially those found in the iron safe—his attempt to escape from France, and his conspiracies with émigrés and foreigners, all spell the word “guilty” to me. He is a traitor and should be punished accordingly. However, if we execute him it may serve to incite the other monarchies of Europe to more vigorous attempts to crush our Revolution. Keeping him alive in prison could be equally dangerous. Thus, I vote that he should be exiled and banned from ever returning to France under pain of death.

**SÉCHELLES:** (*Rising*) Citizens, you thought highly enough of me to vote that I should be the president of the Convention when we first met to decide the fate of the former king, now Louis Capet. I heard all the speeches and debates about whether the Convention was the proper and just place to try Louis and agreed with the decision that we as representatives of the people needed to decide his fate. The Constitution of 1791 did specify that the king was inviolable, but when Louis abdicated the throne he was no longer covered by that protection. Also, there is what is called the letter of the law and what is called the spirit of the law. The people never intended that their king be allowed to traitorously undermine the government or to conspire with foreigners to invade our nation. I am convinced that Louis is guilty, however, I am not resolved as to the method of his punishment. I believe that it would be in the best interests of the nation to show mercy to this man and to sentence him to life in prison.

**VERGNIAUD:** (*Rising*) Citizens, you have voted me your president for this important phase of the Louis trial, and I must be honest with you. I believe that king’s inviolability under our constitution remains a troubling problem, and I was—as you know—in favor of having the people decide his fate. Regardless, I am deeply suspicious of Louis’s wife, Marie Antoinette, and believe that she influenced him to make decisions that caused the blood of innocent Frenchmen to flow. I have heard Louis’s defense and his personal answers to our questions. I have reviewed the incriminating documents that suggest treasonous actions with Mirabeau, émigrés, and foreigners. He is guilty, and I believe that he should be sentenced to death. Citizen Chambon, have you tallied the votes? Is there a majority for guilt?

**CHAMBON:** Yes, Citizen Vergniaud. He is guilty.

**VERGNIAUD:** Is there a majority for punishment?

**CHAMBON:** Yes, he should be executed by guillotine.

**VERGNIAUD:** Citizens, you have determined that Louis Capet should be executed by guillotine. I shall instruct General Santerre to make the necessary arrangements. This session is formally closed.

**NARRATOR:** Louis was voted guilty by the convention deputies, and the appeal to the people, promoted by many of the Girondins, was rejected by 424 votes to 287. When deciding his penalty, 334 deputies voted for imprisonment or conditional death, twenty-six for a suspended death sentence, and 361 for death without any reservations. The former absolute ruler of France was condemned to death by the majority of one vote.<sup>1</sup> On January 20, 1793, at about two o'clock in the morning, Louis learned that the Convention had sentenced him to the guillotine. He asked for a brief delay of three days to prepare himself for his execution, permission to meet privately one last time with his family, and that Abbé Edgeworth, a non-juring priest, accompany him to the scaffold. The Convention agreed to the second and third requests.<sup>2</sup> The guillotine and three executioners awaited Louis at the Place de la Revolution. Louis arrived at ten minutes after ten o'clock in the morning. He undressed himself and mounted the scaffold with resolution and courage. He wanted to speak some last words to the crowd, but the executioner—by order of General Santerre—and the sound of drums, gave him notice that he was only to receive his sentence. Legend has it, though, that Louis cried out over the drums, "People, I die an innocent man! I forgive those responsible for my death and I pray God that my blood will not fall upon France."<sup>3</sup> Louis's head was then struck off and raised by the executioner, to which a thousand cries were heard, "Vive la Nation! Vive la Republique Française!" The spectators rushed toward the scaffold to behold the miserable remains of the unfortunate monarch. Some people dipped their handkerchiefs in his blood and tossed them in the air crying, "Behold the blood of the tyrant." After the execution, his mortal parts were carried to the burial ground of La Madeline. To quicken the dissolution of his body, lime was thrown into his grave. Guards were placed around the fresh grave to prevent his body being taken away in the night.

1 Bernard Fay, *Louis XVI: Or the End of the World* (Chicago: Henry Regnery, 1966), 399–400.

2 Eric Hazan, *A People's History of the French Revolution* (New York: Verso, 2014), 165.

3 Hazan, 166.



# Documentary Evidence

## Document 1: The French Constitution of 1791 (Excerpt)

Title III, Chapter II, Section I

Article 2: The person of the king is inviolable and sacred.

Article 6: If the king puts himself at the head of an army and directs the forces thereof against the nation, or if he does not by a formal instrument place himself in opposition to any such enterprise which may be conducted in his name, he shall be considered to have abdicated the throne.

Article 7: If the king, having left the kingdom, should not return after the invitation which shall be made to him for that purpose by the legislative body and within the period which shall be fixed by the proclamation . . . he shall be considered to have abdicated the throne.

Article 8: After the express or legal abdication, the king shall be in the class of citizens and can be accused and tried like them for acts subsequent to his abdication.

Section II

Article 1: The king is a minor until he is fully eighteen years old; and during his minority there is a regent of the kingdom.

Article 18: In case of notoriously recognized insanity of the king . . . there shall be occasion for a regency as long as the insanity lasts.

**Source:** Anderson, Frank Maloy. *The Constitutions and Other Select Documents Illustrative of the History of France, 1789–1907*. Minneapolis, MN: H. W. Wilson, 1908.

## Document 2: Declaration of the Rights of Man

Approved by the National Assembly of France, August 26, 1789

1. Men are born and remain free and equal in rights.
2. These rights are liberty, property, security, and resistance to oppression. . . .
4. Liberty consists in the freedom to do everything which injures no one else.
5. Law can only prohibit such actions as are hurtful to society.
6. Law is the expression of the general will. Every citizen has a right to participate personally, or through his representative, in its foundation. It must be the same for all . . . All citizens, being equal in the eyes of the law, are equally eligible to all dignities and to all public positions and occupations, according to their abilities, and without distinction except that of their virtues and talents. . . .
7. No one shall suffer punishment except it be legally inflicted in virtue of a law passed and promulgated before the commission of the offence.

8. As all persons are held innocent until they shall have been declared guilty, if arrest shall be deemed indispensable, all harshness not essential to the securing of the prisoner's person shall be severely repressed by law.
9. No one may be disquieted on account of his opinions, including his religious views, provided their manifestation does not disturb the public order established by law.
10. Every citizen may . . . speak, write, and print with freedom. . . .
13. A common contribution [tax] is essential for the maintenance of the public forces and for the cost of administration. This should be equitably distributed among all the citizens in proportion to their means.
14. All citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution. . . .
17. Since property is an inviolable and sacred right, no one shall be deprived thereof except where public necessity, legally determined, shall clearly demand it, and then only on condition that the owner shall have been previously and equitably indemnified.

**Source:** Declaration of the Rights of Man, 1789. Courtesy of The Avalon Project, Yale Law School, Lillian Goldman Law Library.

### Document 3: The French Constitution of 1791 (Excerpt)

Title III, Chapter I

Article 1: The National Assembly, forming the legislative body, is permanent and is composed of only one chamber.

Article 2: It shall be formed every two years by new elections.

Article 5: The legislative body shall not be dissolved by the king.

Chapter II, Section I

Article 1: Royalty is indivisible and is delegated hereditarily to the ruling family.

Article 4: The king . . . shall take to the nation, in the presence of the legislative body, the oath to be faithful to the nation and the law, to employ all the power which is delegated to him to maintain the constitution decreed by the National Constituent Assembly in the years 1789, 1790, and 1791, and to cause the laws to be executed.

Article 10: The nation provides for the splendor of the throne by a civil list, of which the legislative body shall determine the sum.

Section IV

Article 1: The choice and dismissal of the ministers shall belong to the king alone.

Article 2: The members of the present National Assembly and of the legislatures following . . . cannot be promoted to the ministry.

Chapter III, Section I

Article I: The constitution delegates exclusively to the legislative body the following powers and functions:

1. To propose and enact the laws; the king can only invite the legislative body to take the matter under consideration;
2. To fix the public expenditures;
3. To establish the public taxes.

Article 2: War can be declared only by a decree of the legislative body, rendered upon the formal and indispensable proposal of the king, and sanctioned by him.

#### Section III

Article 1: The decrees of the legislative body are presented to the king, who can refuse his consent to them.

#### Section IV

Article 1: The king can each year open the session and can bring forward the matters which he believes ought to be taken into consideration.

Article 10: The ministers of the king shall have entrance into the National Legislative Assembly; they shall have a designated place there.

#### Chapter IV

Article 1: The king is the supreme head of the general administration of the kingdom; the task of looking after the maintenance of public order and tranquility is confided to him.

The king is the supreme head of the army and navy.

#### Section III

Article 1: The king alone can enter upon political relations abroad, conduct negotiations, make preparations for war . . .

**Source:** Anderson, Frank Maloy. *The Constitutions and Other Select Documents Illustrative of the History of France, 1789–1907*. Minneapolis, MN: H. W. Wilson, 1908.

### **Document 4: The Brunswick Manifesto, July 25, 1792 (excerpt)**

This proclamation was read to the deputies in the Assembly on August 1 and was published on August 3. It appeared when anxiety about Louis was at its height, and provided the Jacobins with unquestionable proof of his treasonous behavior.

Their Majesties, the Emperor and the King of Prussia, having committed to me the command of the united armies which they have caused to assemble on the frontiers of France, I have wished to announce to the inhabitants of this kingdom, the motives which have determined the measures of the two sovereigns and the intentions which guide them. . . .

. . . It is in accordance with these views, that I, the undersigned, the General, commanding in chief the two armies, declare:

1. That . . . the two allied courts propose to themselves no other aim than the welfare of France.
2. That they do not intend to meddle with the internal government of France, but that they merely wish to deliver the King, the Queen and the royal family from their captivity.

3. That the combined armies will protect the towns, boroughs and villages and the persons and goods of those who shall submit to the King and who shall co-operate in the immediate re-establishment of order.
4. That the National Guard will be called upon to watch provisionally over the peace . . . until the arrival of the troops of their Imperial and Royal Majesties . . . that on the contrary, those of the National Guard who shall fight against the troops of the two allied courts, and who shall be taken with arms in their hands, will be treated as enemies and punished as rebels to their King. . . .
6. That the members of the departments, of the districts and municipalities shall likewise answer with their heads and their goods for all offenses, fires, murders, pillaging , and acts of violence, which they shall allow to be committed. . . .
7. The city of Paris and all its inhabitants without distinction shall be required to submit at once and without delay to the King, to put that prince in full and perfect liberty; . . . their Imperial and Royal Majesties declare personally responsible with their lives for all events, to be tried by military law and without hope of pardon, all the members of the National Assembly, of the department, district, municipality and the National Guard of Paris; . . . their said Majesties also declare . . . that if the Chateau of the Tuileries be entered by force or attacked, if the least violence or outrage be offered to their Majesties, the King, Queen and royal family, if their preservation and their liberty be not immediately provided for, they will exact an exemplary and ever-memorable vengeance, by delivering the city of Paris over to a military execution and to complete ruin, and the rebels guilty of these outrages to the punishments they shall have deserved.

Given at the head-quarters at Coblenz, July 25, 1792

Signed, Charles William Ferdinand, Duke of Brunswick-Lunebourg

**Source:** Anderson, Frank Maloy. *The Constitutions and Other Select Documents Illustrative of the History of France, 1789–1907*. Minneapolis, MN: H. W. Wilson, 1908.

## Document 5: Counterrevolutionary Letter from Louis XVI to the King of Prussia, December 3, 1791

This letter, found in the iron box, was an example of Louis's treasonous effort to appeal for foreign intervention to put down the French Revolution.

Monsieur my Brother,

I have learned . . . of the interest which Your Majesty had expressed not only for my person, but also for the welfare of my kingdom. The disposition of Your Majesty towards me in giving these proofs, in all the cases where that interest might be useful for the welfare of my people, has warmly aroused my sensibility. I lay claim to it with confidence in this moment, wherein, despite the acceptance which I have made of the new Constitution, the factions openly exhibit the project of destroying entirely the remnants of the Monarchy. I have just addressed myself to the Emperor, the Empress of Russia, the Kings of Spain and of Sweden, and presented to them the idea of a congress of the principal Powers of Europe, supported by an armed force, as the best manner to check the factions here . . . and to prevent the evil which afflicts us from being able to

take possession of the other states of Europe. I hope that Your Majesty will approve of my ideas and that you will preserve the most absolute secrecy upon the step that I have taken with you. You will easily realize that the circumstances in which I find myself compel the greatest circumspection on my part. That is why only the Baron de Breteuil is informed of my projects, and Your Majesty can communicate to him what you shall wish.

... I experience a real delight in giving to Your Majesty the assurances of esteem and affection with which I am,

Your Majesty's good brother

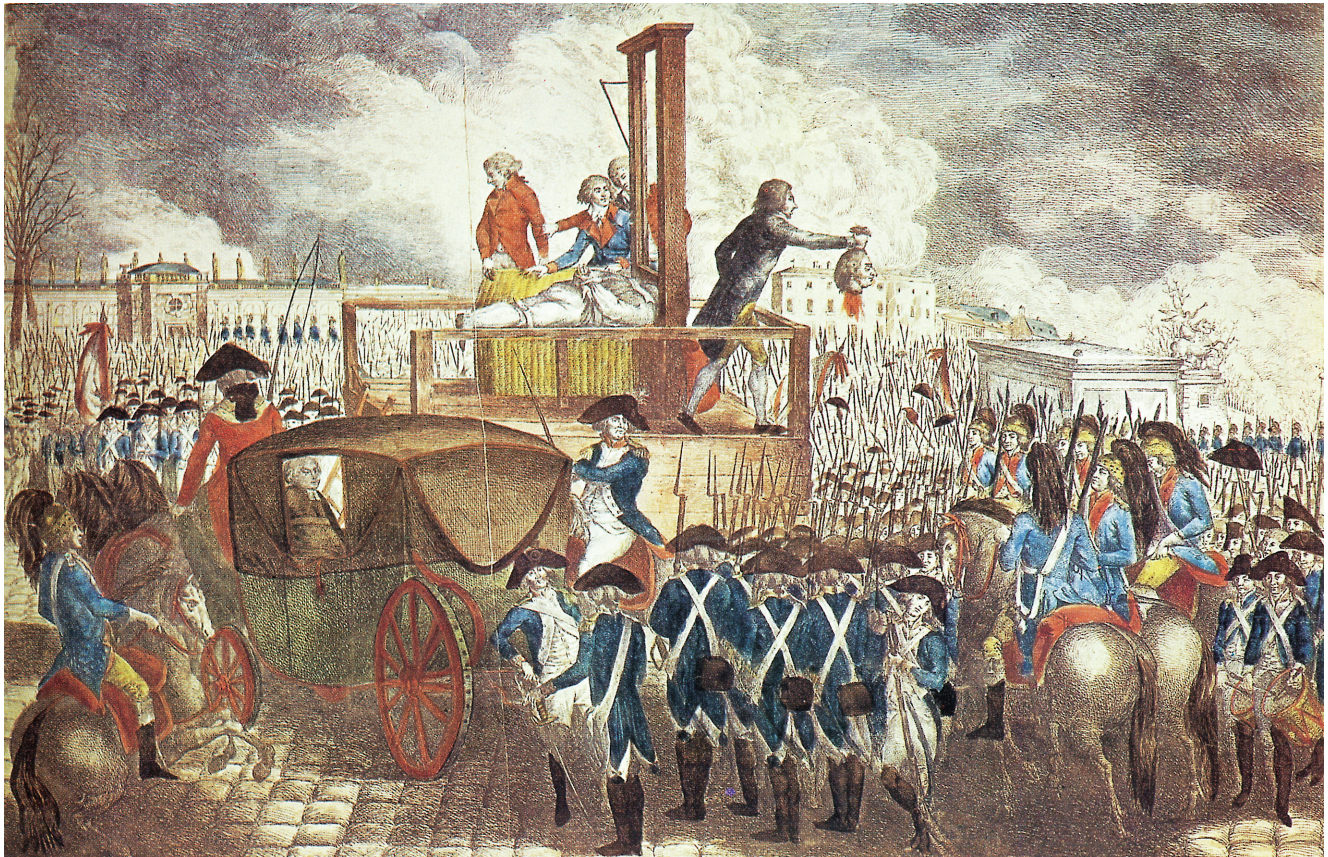
Louis

**Source:** Anderson, Frank Maloy. *The Constitutions and Other Select Documents Illustrative of the History of France, 1789–1907*. Minneapolis, MN: H. W. Wilson, 1908.



# Time Line

- |             |   |
|-------------|---|
| <b>1789</b> | Calling of the Estates-General, the Tennis Court Oath, the fall of the Bastille, and the Declaration of the Rights of Man |
| <b>1790</b> | Louis is still king but has lost most of his executive authority  |
| <b>1791</b> | The new French constitution is formed   |
| <b>1792</b> | Trial of Louis XVI  |
| <b>1793</b> | Execution of Louis XVI  |



Execution of Louis XVI

Image source: Execution of Louis XVI. By Georg Heinrich Sieveking, 1793.

# Glossary

**Armoire de fer:** An iron safe in Louis's chambers in the Tuileries Palace that contained several incriminating documents.

**Ancien régime:** The government of France before the Revolution.

**Brunswick Manifesto:** A proclamation made to the French people by Charles, Duke of Brunswick, the commander of a joint Austro-Prussian army, in July 1792, demanding Louis's restoration to the throne of France and his protection from any kind of violence from the revolutionaries in Paris.

**Cockade:** A tricolor badge that showed that the wearer supported the Revolution.

**Commune:** The revolutionary government of the city of Paris from 1789 to 1795.

**Comte de Mirabeau:** An earlier leader of the Revolution who advocated a constitutional monarchy. In 1790, he was accused of traitorously conspiring with King Louis XVI and Austria. He died in April 1791, otherwise he very likely would have been tried and condemned as a traitor along with Louis. A historian wrote of him: "[He] lived several lives, spoke at least two tongues, one to the King and the other to the Assembly, and did not say everything that he believed and did not believe everything that he said."<sup>1</sup>

**Constitution of 1791:** This constitution was created by the French Legislative Assembly. It established popular sovereignty and authorized a constitutional monarchy similar to that in Britain.

**Convention:** The revolutionary legislature of France after September 20, 1792.

**Declaration of Pillnitz:** An official pronouncement by Frederick William II of Prussia and Marie Antoinette's brother, Holy Roman Emperor Leopold II, opposing the French Revolution and supporting the restoration of Louis XVI to the throne of France.

**Emigrés:** Nobles who fled France during the Revolution. Many were suspected of counter-revolutionary activities.

**Girondins:** Moderate republican deputies—many from the region of Gironde—opposed to radical revolutionaries like the Jacobins.

**Guillotine:** A machine for humanely and efficiently decapitating a person.

**Inviolable:** Sacred and not subject to prosecution.

**Jacobins:** A radical revolutionary political club that became dominated by Robespierre.

**Lettre de cachet:** A letter from the king that could keep a person confined in prison indefinitely without a trial.

**Mountain:** The deputies who sat at the highest seats in the convention hall. Most were Jacobins.

**National or Constituent Assembly:** The revolutionary legislature in France from June 17, 1789, to September 1791.

1 Linda S. Frey and Marsha L. Frey, *The French Revolution* (Westport, CT: Greenwood, 2004), 96.



**Non-juring clergy:** Priests who refused to take an oath in support of the Civil Constitution of the Clergy, a revolutionary law that the pope had denounced as heretical and divisive.

**Republicanism:** A political ideology under that the people hold popular sovereignty, instead of a monarch.

**Sans-culottes:** The common people of France—especially those of Paris.

**Swiss Guard:** Mercenary soldiers that formed Louis XVI's personal bodyguard. Most were murdered on the attack of the Tuileries Palace on August 10, 1792.

**Temple Prison:** Parisian prison where Louis was confined during his trial.

**Tuileries Palace:** A palace where Louis and his family were housed in Paris after they were taken from the Palace of Versailles.

**Varennes:** A French border town where Louis and his family were captured after their failed escape attempt.

# Postscript

Throughout France, there was hardly any public reaction to Louis XVI's execution, even though his death had ended centuries of absolute rule by the kings of France.<sup>1</sup> One of the deputies who had voted for death, Louis-Michel le Peletier, quickly paid with his life. He was stabbed to death as he sat dining alone at a small Parisian restaurant. The assassin, ironically named Pâris, was a devoted member of Louis's Royal Guard. He escaped to England.

Brissot and most of the other Girondists lost their political fight with the Jacobins and were arrested, and accused of counterrevolutionary activities, and guillotined. The reputed wealth of Philippe Egalité did not save him. He was executed in November 1793 as a suspected Girondist. Roland fled Paris but, hounded by Jacobin agents, opted for suicide rather than the guillotine. Marat, who was primarily responsible for the overthrow of the Girondists, was stabbed to death in his bathtub by Charlotte Corday, a young Norman girl. Marie Antoinette was tried and executed on October 16, 1793.

After the king's execution, the so-called Terror spread from Paris throughout France. Danton became a leading opponent of this policy and was accused of corruption and counterrevolutionary activities by Robespierre and Saint Just. He was tried and executed along with Desmoulins on April 5, 1794. The Convention passed the Law of Suspects that was so loosely framed that even those only allegedly guilty of a lack of enthusiasm for the Revolution could be brought to trial and summarily condemned. Thousands were guillotined. However, both Abbé Sieyès and Lindet survived and became important figures under the Directory<sup>2</sup> and Napoleon. Not so Robespierre, whose bloody leadership had sufficiently scared the moderate deputies in the Convention. On July 27, 1794, he was accused in the Convention of being a tyrant, arrested, and then condemned the next day. On July 28, Robespierre, Saint Just, and more than a dozen of their Jacobin followers were sent to the guillotine.

After the death of Robespierre, the policies of the Terror, with its many executions, were abandoned. The Commune and other organizations created by the Jacobins were abolished. The Jacobins made attempts to regain control, but they were unsuccessful. The Convention produced a new constitution with an executive branch comprising a five-member leadership termed the Directory. Still threatened on its border with foreign invasion, it was under this government that France saw the rise of a new military leader—Napoleon Bonaparte.

1 Pauline Chapman, *The French Revolution: As Seen by Madame Tussaud, Witness Extraordinary* (London: Quiller, 1989), 132.

2 The Directory was a five-person political body that served as the French executive branch of government.

# Discussion Questions

1. Do you think that Louis's attorneys made a valid argument that Louis could not be convicted of treason, or any other crime, since the Constitution of 1791 specifically made his official position as a constitutional monarch inviolate? Discuss.
2. Louis's attorney, de Sèze, decided not to follow the example of Charles I of England by challenging the competence of the court. Instead, he framed a defense based on the laws in force at the various times when Louis was alleged to have committed the crimes. Many historians believed that Louis's adoption of Charles I's line would have been the best way to salvage the prestige and mystique of monarchy and a more effective way to secure its speedy restoration. By deciding to challenge the details of the individual accusations, he in effect legitimized the process. Do you agree or disagree? Discuss.
3. An English observer of Louis's trial observed that the "king's appearance in the Convention, the dignified resignation of his manner, the admirable promptness and candor of his answers, made such an evident impression on some of the audience in the galleries, that a determined enemy of the Royalty, who had his eye upon them, declared he was afraid of hearing the cry *Vive le roi!* [Long live the king] issue from the tribunes."<sup>1</sup> Louis's appearance clearly did not save him from conviction and condemnation. Does it really matter how a defendant physically looks and behaves during a trial? Can you think of any other famous trials in which the defendant's good or poor appearance and behavior had an effect on the outcome of the proceedings? Discuss.
4. When Louis was preparing his defense, he said to one of his attorneys, Malesherbes, "Me a tyrant—a tyrant does everything for himself. Have I not constantly done everything for the people? Who among them has ever hated tyranny more than me?"<sup>2</sup> He went on to say that he "had been trying to think if, in the course of my reign, I did anything that deserved the slightest reproach from my subjects."<sup>3</sup> The majority of his accusers during the trial, especially the Jacobins, wholly disagreed. Do you think his trial revealed who was right? Discuss.
5. It has been said that one of the great dilemma's that all monarchs faced was being stuck with the people they were born to rule. Was this true of Louis XVI? Discuss.
6. Once the king had been found guilty of treason—especially of shedding the blood of the people—was there really any other alternative to sentencing him to death? Discuss.
7. The Convention president, Séchelles, noted that there is the letter of the law and the spirit of the law. Which principle was most significant in Louis's trial and conviction? Discuss.
8. Louis's attorney, de Sèze, said that the law deals with actions not motives. A man can be tried for violating the law but not for disliking the law. Was Louis tried for his motives and dislike of the Revolution or for his actions? Discuss.
9. If Louis had been acquitted (unlikely) or if he had been exiled (possible), do you think it would have altered the course of the French Revolution? Discuss.

1 Jordan, *The King's Trial*, 140.

2 Jordan, 89.

3 Jordan, 205.

## Extension Activities

1. More than a hundred years before the French Revolution, the English had placed Charles I on trial for treason. Charles, like Louis, was convicted and lost his head. Research the trial of Charles I and either write an essay or prepare a class presentation comparing his trial with that of Louis XVI. How were they similar? How were they different?
2. Most historians believe that Louis XVI's treason trial was fundamentally a power struggle between the Girondists and the Jacobins that evolved into a period of time known as the Terror. The king had merely become a pawn in the political ambitions of powerful revolutionary leaders, like Robespierre and Brissot, struggling to control the direction of the Revolution. Write an essay or create a class presentation that highlights the struggle between these opposing revolutionary forces and the thousands who perished under the blade of the guillotine. What were the differences between their visions and goals of the Revolution?
3. Heritage and power have not always been kind to the monarchs of Europe. Charles I had his head chopped off during the English Civil War, Queen Ann Boleyn's head fell after she failed to produce a male heir for Henry VIII, Louis XVI lost his head to the guillotine during the French Revolution, Alexander II, emperor of Russia, was blown up by an anarchist in 1881, and the last Russian tsar, Nicholas II, and his entire family were shot to death during the Russian Revolution. Write an essay or create a class presentation about one of these other monarchs and the problems that led to their death.

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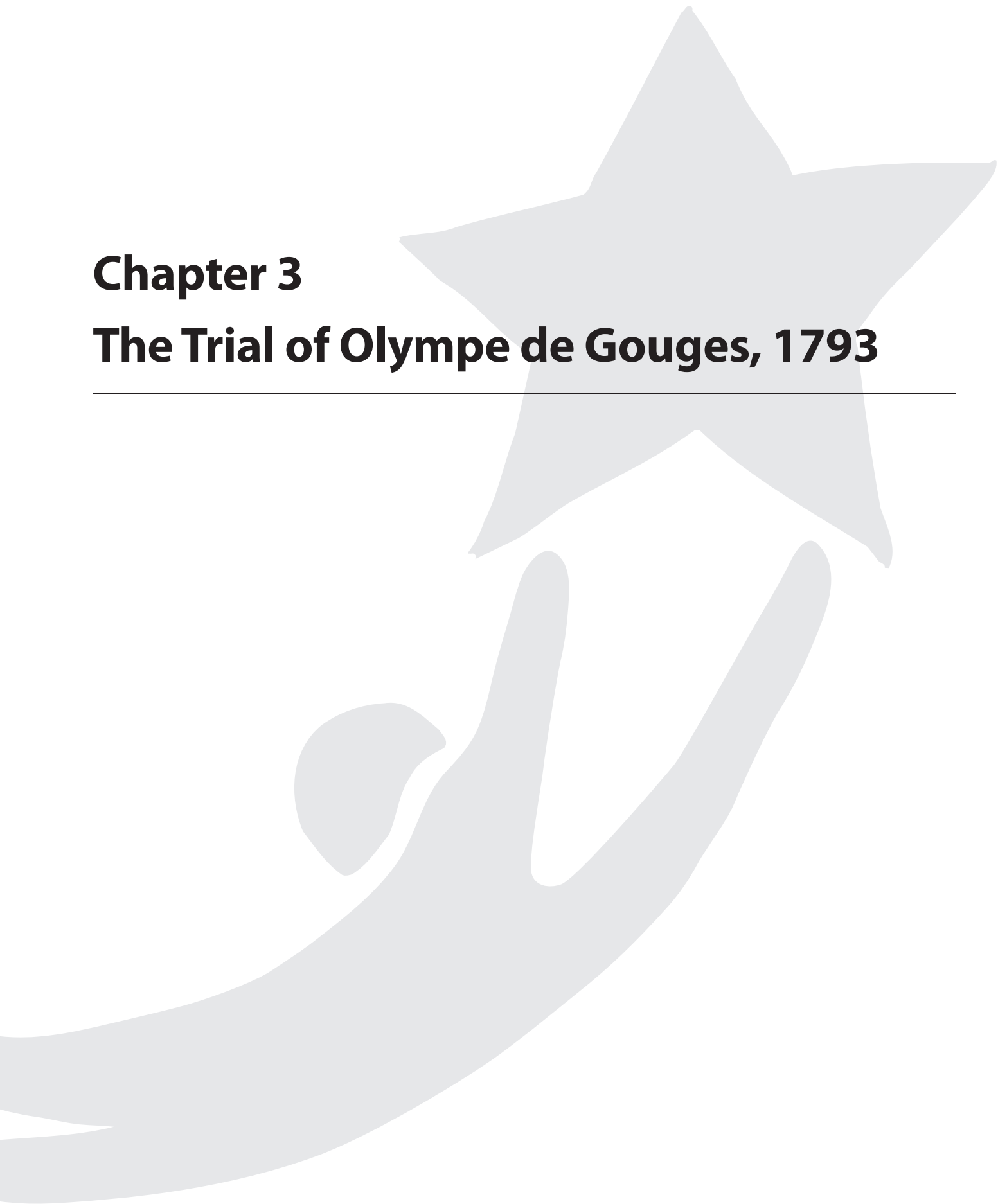
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## **Chapter 3**

# **The Trial of Olympe de Gouges, 1793**

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## ● Introduction ●

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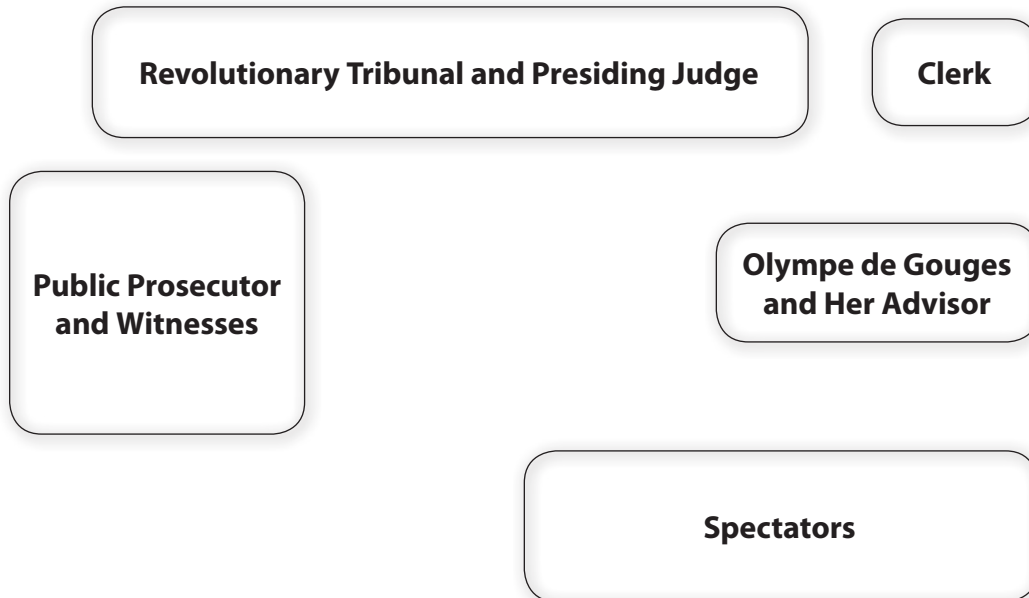
Olympe de Gouges was tried and guillotined for writing controversial remarks about the revolutionary government of France during the phase of the Revolution called the Terror.

### **Objectives**

1. Students will appreciate the role that Olympe de Gouges played in advancing women's rights in France.
2. Students will understand how the Terror affected all levels of French society during the Revolution.

## Lesson Plan

### Diagram of Courtroom Seating



### Notes for the Teacher

1. In the roles for this trial, note that the role of the defendant, Olympe de Gouges, is by far the most demanding. You may even decide to have a few students assume the role to share the burden.
2. Unless you have a very confident student, it is recommended that you assume the role of presiding judge or at least serve as an advisor.
3. You should meet with the student(s) portraying Olympe de Gouges and advise them to do their best, but that it is almost a forgone conclusion that the revolutionary tribunal will find her guilty.
4. For both the role-play version and the scripted version, arrange the classroom in the form of a French revolutionary court with the members of the tribunal (depending on class size) and presiding judge seated in the front. The court clerk should be off to the side. On one side of the classroom should be the public prosecutor and his witness. The defendant should be seated on the opposite side.

### Suggested Schedule (role play)

#### Day One:

1. Read and discuss the background for teachers and students. Students may use this information in preparing their roles.
2. Assign roles (see grid).

## The Trial of Olympe de Gouges, 1793

### Lesson Plan

#### Teaching Tip

Have the unassigned students be “unruly” spectators, hurling insults or support depending on what they hear.



3. Depending on class size, you may want to expand the number of members on the revolutionary tribunal.

#### Day Two:

1. The trial.
2. Begin debriefing using the Discussion Questions.

#### Day Three:

1. Conclude debriefing.
2. Extension Activities.

### Suggested Schedule (scripted version)

#### Day One:

1. Decide which students will be assigned the specific roles in the play. Since there are only six actual speaking roles, you may decide to have two or more students share a specific role.
2. Arrange the classroom in the form of a French revolutionary court with the members of the tribunal (depending on class size) and presiding judge seated in the front. The court clerk should be off to the side. On one side of the classroom should be the public prosecutor and his witness. The defendant should be seated on the opposite side.
3. When students enter the classroom, send them to the appropriate location.
4. Read and briefly discuss the Background Essay.
5. Read the play.
6. Debrief using the Discussion Questions.

#### Day Two:

1. Continue debriefing.
2. Extension Activities.

## Roles Grid

Role	Historical Character	Student Name
<b>Narrator</b> (scripted version)		
<b>Presiding Judge</b>		
<b>Court Clerk</b>		
<b>Defendant</b>	Olympe de Gouges	
<b>Advisor to Olympe de Gouges</b>		
<b>Public Prosecutor</b>	Antoine Quentin Fouquier de Tinville	
<b>Citizen Bill Poster</b>	Jacques Brulle	
<b>Members of Revolutionary Tribunal</b>		

# Background Essay



Portrait of Olympe de Gouges

Olympe de Gouges was a French actor and playwright who began her career in the early 1780s. By 1789, she had become caught up in the turbulent events of the French Revolution, writing political pamphlets that argued for gender equality. In her most famous work, *Declaration of the Rights of Woman and the Female Citizen*, published in 1791, she issued a direct challenge to male authority and female inequality. She was a proponent of more direct democracy and a harsh critic of the revolutionary government whose members, all male, she considered too ambitious and power hungry. Additionally, she advocated for the abolishment of slavery, championed for the rights of illegitimate children, argued for the creation of maternity hospitals for the poor, promoted a national theater exclusively for women, called for public workshops to help train the unemployed, and lobbied for cleaner Parisian streets.<sup>1</sup>

<sup>1</sup> Lucy Moore, *Liberty: The Lives and Times of Six Women in Revolutionary France* (New York: Harper Collins, 2007), 57.

By late 1792, she had become more outspoken in her opposition to the leaders of the Revolution, especially the Jacobins. She deplored despotism and tyranny in any form, saying, "It is in my nature to side with the weakest and the most oppressed . . . I find it neither praiseworthy nor courageous for five hundred to a thousand people to slit the throat of a single defenseless Citizen."<sup>2</sup> She begrudgingly admired Danton but called Robespierre an "amphibious animal" and painted Marat in even harsher terms, referring to him as "having neither the physique nor the morals of a man."<sup>3</sup>

The former king, now Citizen Louis Capet, was placed on trial in the National Assembly on December 11, 1792, and Olympe de Gouges offered a defense of him in a letter that argued, "As King, Louis was in the wrong, but shorn of

<sup>2</sup> Sophie Mousset, *Women's Rights and the French Revolution: A Biography of Olympe de Gouges* (New Brunswick, NJ: Transaction, 2007), viii.

<sup>3</sup> Moore, 166.

Image source: © Bonarov/CC BY-SA 4.0.



that banned title, he ceased to be guilty in the eyes of the Republic [and in fact under different circumstances] . . . he may even have been a virtuous King."<sup>4</sup> It was a minority view that later would come back to haunt her as it would be used as evidence of her royalist views. Louis was guillotined on January 21, 1793. In June 1793, Olympe de Gouges's political allies, the Girondins, were arrested and placed on trial before the revolutionary tribunal. Most were subjected to a summary trial and sent to the guillotine. Olympe de Gouges continued her outspoken contempt of the leaders of the Terror, even describing Robespierre as "ambitious, without genius or soul . . . ready to sacrifice a whole nation to become dictator."<sup>5</sup>

Her attempt to publish a radical poster titled *Les Trois Urns* was the last straw. Among other things, it suggested the potential need for a constitutional monarchy. The Jacobins had already tried and executed Louis XVI and were in no mood to accept even the suggestion of royalty. She was arrested and imprisoned, accused of publishing counterrevolutionary letters and

posters supporting the return of royalty, and advocating a popular referendum of the future of the French Republic and its leaders.<sup>6</sup> Her accusers flatly stated, "Olympe de Gouges has written and printed works that can only be considered as an assault against the people's sovereignty."<sup>7</sup>

Her home was searched, and investigators found an unfinished play titled *France Preserved, or the Tyrant Dethroned*. In the play's first act, the plot revolves around the forces of the revolutionary government, including de Gouges herself, confronting a royalist uprising led by Marie Antoinette. At one point, de Gouges even lectures the queen about her seditious activities. This play was used by both the prosecution and de Gouges during her trial. Like many of those condemned to appear before the revolutionary tribunal, she was denied legal counsel. At her trial, she had to defend herself without an attorney or defense witnesses against the charge of high treason.

You will now have a chance to participate in either a role play or a dramatic reading of her trial.

4 Mousset, 88.

5 Moore, 254.

6 Darline Gay Levy, Harriet Branson Applewhite, and Mary Durham Johnson, *Women in Revolutionary Paris, 1789–1795: Selected Documents Translated with Notes and Commentary* (Urbana: University of Illinois Press, 1979), 254.

7 Mousset, 95.

# Roles

## Presiding Judge

You will be the presiding judge in the trial of the defendant Olympe de Gouges, who is accused of treason. You have a revolutionary tribunal (like a jury) that you will expect to listen to the evidence against the accused and to render a verdict.

At the beginning of the trial you will instruct the clerk/marshal to read the charges against the defendant and ask for a plea. Then you will ask the prosecutor to make any opening remarks followed by calling any witnesses. You should instruct the clerk/marshal to swear in the witnesses. You will then allow the defendant to present her defense along with any questions from the prosecutor. At the conclusion of the defense remarks, you should allow Olympe de Gouges to make any final remarks prior to the court rendering its verdict. If the defendant is deemed guilty by the tribunal, then you should sentence her to be sent to the guillotine. Note that at some time during the proceedings, Olympe de Gouges may claim to be pregnant and that, because she will be giving birth to a future French citizen, she cannot be sentenced to death. If she makes that plea, then you will remind her that she has been examined and that this is a false claim.

## Court Clerk/Marshal

You are charged with assisting the presiding judge in running the trial and dealing with any potential disruptions. You will be instructed to swear in any potential witnesses and to read the charge against the defendant.

When swearing in any witnesses you will ask:

"Do you swear to tell the truth, the whole truth, and nothing but the truth?"

Charge against the defendant:

"Article 1 of the recent law passed in 1793 by our revolutionary government states that 'whoever is convicted of having composed or printed works or writings which provoke the dissolution of the national representation, the reestablishment of royalty, or of any other power attacking the sovereignty of the people, will be brought before the revolutionary tribunal accused of high treason and punished by death.'"

## Members of the Revolutionary Tribunal

You are a French citizen selected to serve like a jury member, trying cases of treason against the newly created French Republic. Any hint of antirevolutionary or antirepublic sentiments will be enough for you to convict a suspect and send him or her to their death by the guillotine.

## Olympe de Gouges

You are a thirty-eight-year-old Parisian woman. You are also a well-known writer—a woman of letters. You have been accused of composing and printing literary works viewed as treasonous attacks against the existing revolutionary government and its leaders. You will plead not guilty.

One of your works (designed to be turned into a placard), titled *Three Urns, or the Salvation of the Fatherland, by an Aerial Traveler*, will be singled out as particularly treasonous. Your accusers will say that the only reason this particular work did not inflict damage on the Revolution was

that the bill poster who you hired to print and disseminate the poster never made it available to the public. This work is allegedly attempting to provoke civil war, by suggesting arming French citizens against each other by proposing illegal assemblies to meet and encourage a return to a monarchical government—a form of government expressly abolished by the Revolution. You will maintain that it was never your intent to undermine the Revolution. It was merely to suggest that the people should have the right to choose their own form of government. You will claim that you saw the discontent spreading throughout France—especially in Bordeaux, Lyons, and Marseilles—and thought it might be the best idea to bring all the opposing parties together by giving them the choice of the kind of government they thought would be most suitable to them.

You will say that you always favored a republic, but that it should be a republic that embraces all its citizens—both men and women—including those who are still in bondage. You wrote in your work *Of Black Slavery* that blacks are being bought and sold like cows in a market, and that you are horrified by what privileged men will do in the name of profit. It is only their color that differentiates the African from the European. France should end this horrible practice.

You will be accused of writing injurious and deceitful declamations against the leaders of the Revolution from the mouth of who your accusers call the adulterous and treacherous former queen, Marie Antoinette. You will maintain that you only had her speak the language that was appropriate during the time she was queen of France.

You will be asked to defend a placard you wrote, *Olympe de Gouges, Louis Capet's Defender*. You will say that you believed at the time that Louis Capet should have been exiled, not executed. You will also maintain that some of the current revolutionary leaders—like Robespierre—seem more interested in advancing their personal power than serving the good of the republic. It seems to you that these men have placed personal ambition before liberty.

You will tell the court that you would like them to take into consideration that you have always supported the principles of the Revolution: liberty, fraternity, and equality. Regarding equality, you have always believed that the principle of equality should be afforded to all French citizens—not just men. You stated this very clearly in your work *Declaration of the Rights of Woman and the Female Citizen*.

Finally, if it seems likely that you will be convicted and condemned to the guillotine, you may say to the court that they will not have the satisfaction of seeing your head fall because you are currently pregnant and will soon give birth to a citizen of the Republic. This is, however, not true, and if the court decided to have you examined by a physician, a likely course of action, the lie will be discovered and make your condemnation to death even more likely.

If you are condemned by the revolutionary tribunal, you will be given the chance to make a final statement. You should say the following:

"Gentlemen, doesn't article 7 of our new constitution guarantee the freedom of expression—and of the press—as the most precious heritage of man? Are these rights, this heritage, this actual constitution, only vague phrases with illusory meanings? Even though I am a woman, shouldn't these rights be awarded to me, too? When I wrote the *Three Urns*—and later proposed to make it into a popular poster—it seemed to me the only way of safeguarding France from the reign of ambitious men like Robespierre. I ask this court: What motives have driven the men who have brought me to this terrible condition? The answer: vile hatred and deceit. I have sacrificed my entire fortune to the Revolution. By throwing me into prison, you have sought to rid yourselves

of an observer who damages your plots, but my horrible detention and this mockery of a trial—and I fear my condemnation to the guillotine—will one day be the subject of a tragic drama. Shudder tyrants, because my voice will be heard from the depths of my tomb. My pure and composed conscience—that is my defense. Jacobin oppressors, your reign will pass like that of all persecutors. I denounced you in the eyes of humanity. Evil ambitious men, slaves to the biases of the old regime, false republicans—ill becomes you to accuse and condemn a woman born with a pure nature and a republican soul. You may condemn me now, but your blood alone can wash away the stains that you have imprinted on the French nation. The law will soon bring you to the guillotine. *Vive la France. Vive la Republique.*"

**Advisor to Olympe de Gouges (nonhistorical role)**

The defendant was not permitted to have an attorney. However, you will be allowed to assist Olympe de Gouges in her defense. You should work closely with her to frame questions and statements that will demonstrate that she is not a traitor, but merely a writer expressing her right of freedom of speech guaranteed under the Declaration of the Rights of Man.

**Antoine Quentin Fouquier de Tinville—Public Prosecutor**

You will accuse the defendant of maliciously and purposefully using her words and writings to attack the sovereignty and liberty of the people. She expressed anti-Republican views and willfully promoted the establishment of an absolute monarchy. Her treasonous views were clearly expressed in her many works, especially *Three Urns, or the Salvation of the Fatherland, by an Aerial Traveler* and *France Preserved, or the Tyrant Dethroned*. The treasonous views expressed in this work were only prevented from infecting the people of France because the witness (Citizen Bill Poster) did not print the poster. Further, even when she was under arrest, de Gouges continued her treasonous behavior by creating an antirevolutionary poster, *Olympe de Gouges at the Revolutionary Tribunal*. This was clearly part of a treasonous plot to undermine the authority of the revolutionary tribunal and the leaders of the French Republic.

**Jacques Brulle—Citizen Bill Poster**

You are a printer who specializes in political posters. You were approached by the defendant to make the poster *Three Urns, or the Salvation of the Fatherland, by An Aerial Traveler*. However, when you saw the title and content of the poster, which you believed clearly represented anti-revolutionary views, you declined to print it. You believe the poster demanded a plebiscite be called to give citizens a choice among three potential forms of government: either a unitary republic, a federalist government, or a constitutional monarchy. You informed the revolutionary government about the defendant's attempt to enlist your services in making this allegedly treasonous poster.

# Script: Trial of Olympe de Gouges

**NARRATOR:** The revolutionary tribunal is now in session, trying the case against Olympe de Gouges.

**PRESIDING JUDGE:** The court clerk will now read the charges against the defendant.

**COURT CLERK:** Article 1 of the recent law passed in 1793 by our revolutionary government states that “whoever is convicted of having composed or printed works or writings which provoke the dissolution of the national representation, the reestablishment of royalty, or of any other power attacking the sovereignty of the people, will be brought before the revolutionary tribunal accused of high treason and punished by death.”

**PRESIDING JUDGE:** Olympe de Gouges, how do you plea?

**OLYMPE DE GOUGES:** Not guilty.

**PRESIDING JUDGE:** Citizen Fouquier de Tinville, do you have any opening remarks to make prior to presenting witnesses?

**FOUQUIER DE TINVILLE:** Yes, your honor. (*Facing the tribunal*) The accused maliciously and purposefully composed writings attacking the sovereignty of the people—they who clearly love liberty and support a republican form of government—by promoting the reestablishment of a monarchy. She specifically made her treasonous views known in her work *Three Urns, or the Salvation of the Fatherland, by An Aerial Traveler* and *France Preserved, or the Tyrant Dethroned*. Even when under arrest, she continued her treasonous actions by creating the poster *Olympe de Gouges at the Revolutionary Tribunal*, which attempts to undermine the authority of this court and the leaders of our republic.

**PRESIDING JUDGE:** Do you have any witnesses you would like to call?

**DE TINVILLE:** Yes, your honor. I would like to call Citizen Jacques Brulle, a bill poster.

**CLERK:** Citizen Jacques Brulle, stand and face the tribunal.

**DE TINVILLE:** Citizen, were you approached by the defendant and asked to print the poster *Three Urns, or the Salvation of the Fatherland, by An Aerial Traveler*?

**CITIZEN JACQUES BRULLE:** Yes.

**DE TINVILLE:** And did you print this poster?

**BRULLE:** I did not.

**DE TINVILLE:** Why did you refuse to print this poster?

**BRULLE:** I was shocked.

**DE TINVILLE:** Why?

**BRULLE:** Because of the antirevolutionary principles that were clearly evident on the poster.

**DE TINVILLE:** And what were these antirevolutionary principles that you saw on the poster?

**BRULLE:** It clearly demanded a plebiscite be called to give French citizens a choice of three potential forms of government—either a unitary republic, a federalist government with shared power between a central government in Paris and regional legislatures, or a constitutional monarchy. It seemed to me that the poster favored a monarchy.

**DE TINVILLE:** And did you bring this to the attention of the revolutionary government?

**BRULLE:** I did.

**DE TINVILLE:** No further questions of this witness.

**PRESIDING JUDGE:** Do you wish to call another witness?

**DE TINVILLE:** I would like to question the defendant, your honor.

**CLERK:** Olympe de Gouges, stand and face the tribunal.

**DE TINVILLE:** State your name for the court.

**OLYMPE DE GOUGES:** Olympe de Gouges.

**DE TINVILLE:** And your age, place of birth, and residence.

**DE GOUGES:** Thirty-eight, a native of Montauban. I now live in Paris, Rue du Harlay, Section Pont-Neuf.

**DE TINVILLE:** What is your occupation?

**DE GOUGES:** I am a woman of letters—a writer.

**DE TINVILLE:** Isn't it true that you composed and had printed works that can only be viewed as a direct attack on the government?

**DE GOUGES:** That was not my intent.

**DE TINVILLE:** Did you write the work *Three Urns, or the Salvation of the Fatherland, by An Aerial Traveler*?

**DE GOUGES:** Yes.

**DE TINVILLE:** And isn't it true that this work is attempting to openly provoke civil war by suggesting to arm citizens against one another and by proposing assemblies to meet and encourage a monarchical government—a form of government expressly abolished by the Revolution?

**DE GOUGES:** No, it was merely suggesting that the people should have the right to choose their own form of government. Citizen, I saw the discontent spreading through France—especially in Bordeaux, Lyons, and Marseilles. I thought it might be the best idea to bring all the opposing parties together and give them the choice of the kind of government they thought would be most suitable to them. My intentions have always been the well-being and happiness of France and the French people.

**DE TINVILLE:** How can you say that you are a good citizen of France—wanting only her well-being and happiness—when the people have clearly adopted a republican government and you are suggesting the restoration of a monarchy—a form of government in direct opposition to our new republic?



**DE GOUGES:** That is not true. My intentions have always been pure. I have always personally favored a republic and, I might add, it should be a republic that embraces all its citizens—both men and women—including those who are still in bondage. As I wrote in my work *Of Black Slavery*, blacks are being bought and sold like cows in a market. I am horrified by what privileged men do in the name of profit. It is only color that differentiates the African from the European. We should end this horrible practice.

**DE TINVILLE:** Isn't it true that you also wrote the work *France Preserved, or the Tyrant Dethroned*?

**DE GOUGES:** Yes.

**DE TINVILLE:** Isn't it also true that in this work you wrote injurious and deceitful declamations against the leaders of our revolution from the mouth of that adulterous and treacherous ex-queen, Marie Antoinette?

**DE GOUGES:** I had her speak only the language that was appropriate for her when she was the queen.

**DE TINVILLE:** How do you explain what you wrote in your placard *Three Urns, or the Salvation of the Fatherland, by An Aerial Traveler*?

**DE GOUGES:** It was never intended to suggest a restoration of a monarchy—and I never made it available to the public.

**DE TINVILLE:** Isn't it true that the only reason it was never made available to the public was because the bill poster—who has already testified—refused to post it?

**DE GOUGES:** Yes, but—

**DE TINVILLE:** (*Cutting her off*) And how do you explain your support of the traitorous ex-king Louis XVI in your placard *Olympe de Gouges, Louis Capet's Defender* and the slanderous remarks made about our leaders that you are even now writing and titling *Olympe de Gouges at the Revolutionary Tribunal*?

**DE GOUGES:** I believed at the time that Louis Capet should have been exiled, not executed. But I do believe, citizen, that some of our leaders seem more interested in advancing their personal power than serving the good of the republic. I, on the other hand, have always been a good and true citizen of the republic.

**DE TINVILLE:** I am shocked to hear you suggest your malicious views toward the men who have for many years sacrificed everything for the Revolution.

**DE GOUGES:** I merely suggest that some of these men have placed ambition before liberty.

**PRESIDING JUDGE:** Citizen Fourquier de Tinville, do you have any final remarks before the tribunal renders its verdict?

**DE TINVILLE:** I do. There can be no mistaking the treacherous aims of this felonious woman, especially when one reads her treasonous works that spew out evil venom against the heroes of our glorious revolution. In her works, you can see that she suggests that only a monarchical government—not a republic—would be suitable for the French people, although she would have us think otherwise.

**PRESIDING JUDGE:** Olympe de Gouges, do you have anything to say before the court renders its verdict?

**DE GOUGES:** Yes, I would like the court to take into consideration that I have always supported the principles of the Revolution: liberty, fraternity, and equality. Regarding equality, I have always believed that the principle of equality should be afforded to all French citizens—not just men. I stated this very clearly in my work *Declaration of the Rights of Woman and the Female Citizen*. Finally, my enemies—many who are obviously here in this courtroom—will not have the glory of seeing my blood flow. I am pregnant and will soon bear a citizen for the Republic.

**PRESIDING JUDGE:** We will find out if that is true. Remove the defendant and have her examined to see if she is in fact with child.

**NARRATOR:** Olympe de Gouges was removed from the court. Later that day, the court reconvened.

**PRESIDING JUDGE:** Olympe de Gouges, you have been examined and your claim to be with child has been shown to be false—clearly an indication of all the falsehoods you have been saying to this court. Do you have any final words before the revolutionary tribunal renders its verdict?

**DE GOUGES:** I do. Doesn't article 7 of our new constitution guarantee the freedom of expression—and of the press—as the most precious heritage of man? Are these rights, this heritage, this actual constitution, only vague phrases with illusory meanings? Even though I am a woman, shouldn't these rights be awarded to me too? When I wrote the *Three Urns*—and later proposed to make it into a popular poster—it seemed to me the only way of safeguarding France from the reign of ambitious men like Robespierre. I ask this court: What motives have driven the men who have brought me to this terrible condition? The answer: vile hatred and deceit. I have sacrificed my entire fortune to the Revolution. By throwing me into prison, you have sought to rid yourselves of an observer who damages your plots, but my horrible detention and this mockery of a trial—and I fear my condemnation to the guillotine—will one day be the subject of a tragic drama. Shudder tyrants, because my voice will be heard from the depths of my tomb. My pure and composed conscience—that is my defense. Jacobin oppressors, your reign will pass like that of all persecutors. I denounce you in the eyes of humanity. Evil ambitious men, slaves to the biases of the old regime, false republicans—ill becomes you to accuse and condemn a woman born with a pure nature and a republican soul. You may condemn me now, but your blood alone can wash away the stains that you have imprinted on the French nation—the law will soon bring you to the guillotine. *Vive la France. Vive la Republique.*

**PRESIDING JUDGE:** Olympe de Gouges, in accordance with the law the court sentences you to be taken tomorrow to the place of execution where your head will be severed from your body.

**NARRATOR:** The next day—13 Brumaire, according to the revolutionary calendar—a most extraordinary woman of letters was taken to the scaffold. All of Paris admired her beauty and courage facing death. She approached the scaffold with a calm and serene expression on her face. She had always been enthusiastically behind the Revolution, but, having quickly perceived how atrocious the system adopted by the Jacobins became, she chose to speak out against this tyranny. She attempted to unmask the villains of this revolutionary government using her talents as a writer. They never forgave her and she paid for her actions on behalf of liberty with her head. At four o'clock in the afternoon, Olympe de Gouges bravely mounted the scaffold and looked out at the assembled crowd and said, "Children of the Fatherland, you will avenge my death."

# Documentary Evidence

Excerpt from *The Three Urns, or the Salvation of the Fatherland, by an Aerial Traveler*  
by Olympe de Gouges

Oh French, what has caused your dissension? The death of the tyrant? Well, he is dead! All factions must fall with his head. . . .

Oh tyrants of the world, tremble; I am not on your side! If the fate of a divided people is, at last, to understand the necessity of definitively choosing a form of government, one which must, unchallenged, quieten all opinions, then I want the French, at the very least, to be masters of their choice so that they offer themselves the government that best suits their character, their customs and their climate in order that their revolution forever serves as a lesson to tyrants and not to peoples.

The French can no longer procrastinate: the day of reckoning has arrived. Now is the time to establish a decent government whose energy comes from the strength of its laws; now is the time to put a stop to assassinations and the suffering they cause, for merely holding opposing views. Let everyone examine their consciences; let them see the incalculable harm caused by such a long lasting division (the total upheaval of the [fatherland]) and then everyone can pronounce freely on the government of their choice. The majority must carry the day. It is time for death to rest and for anarchy to return to the underworld.

Several *départements* are rising up in favour of federalism; the royalists are strong both in and out of the country; the constitutional government, one and indivisible, is in a courageous minority. Blood flows everywhere, this struggle is appalling and dreadful in my view. It is time for the combat to cease.

. . . All the *départements* must be enjoined to convoke primary assemblies: three urns must be placed on the President of the assembly's table, each one labelled with one of the following inscriptions: *republican Government, one and indivisible; federal Government; monarchic Government*.

The President will proclaim, in the name of the endangered [Fatherland], the free and individual choice of one of three governments. All voters will have three ballot papers in hand, their choice will be written on one of them: It will not be possible to make a mistake, either on the urn or on the paper, that the voters' probity dictates. They will place a ballot paper in each urn. The government that obtains the majority of votes will be sworn in by a solemn and universal oath of allegiance; this oath will be renewed on the urn for every citizen, individually.

. . . I would be delighted to live under a truly republican government, but this government, as you know, has to be led by virtuous and disinterested men.

**Source:** "Les Trois Urnes," Olympe de Gouges: English Translations of the Original French Texts, accessed March 5, 2019, [http://www.olympedegouges.eu/three\\_urns.php](http://www.olympedegouges.eu/three_urns.php).

# Time Line

<b>1748</b>	Olympe de Gouges is born on May 7 to Anne-Olympe Mouisset in Montauban and presumed to be the illegitimate child of Jean-Jacques Lefranc, Marquis de Pompignan.
<b>1784</b>	Olympe de Gouges writes a three-act play, <i>Zamore et Mirza, ou l'Heureux Naufrage</i> , about slavery from the slaves' perspective.
<b>1789</b>	The French Revolution begins with the meeting of the Estates-General, the Tennis Court Oath, the formation of the National Assembly, the fall of the Bastille, and the <i>Declaration of the Rights of Man and of the Citizen</i> .
<b>1790</b>	Nobility and titles are abolished.  Olympe de Gouges publishes a one-act play, <i>Le Temps et la Liberté, ou la Fédération Française</i> , and a five-act play, <i>Le Nouveau Tartuffe, ou l'Ecole des jeunes gens</i> .
<b>1791</b>	Olympe de Gouges publishes the <i>Declaration of the Rights of Woman and the Female of the Citizen</i> .
<b>1792</b>	Publication and translation into French of Mary Wollstonecraft's <i>A Vindication of the Rights of Woman</i> and the trial of Louis XVI.  Olympe de Gouges begins the play <i>La France Sauvée, ou le Tyran Détrôné</i> , which remained unfinished but was used against her in her trial.
<b>1793</b>	Louis XVI is condemned to death and executed.  Olympe de Gouges produces a poster, <i>Arrêt de Mort que Présente Olympe de Gouges Contre Louis Capet</i> .  The Committee of Public Safety and the revolutionary tribunal are created.  Olympe de Gouges starts work on the pamphlet <i>Le Combat à Mort des Trois Gouvernements</i> , in which she suggests a democratic choice of government, and the pamphlet, <i>Testament Politique d'Olympe de Gouges</i> , defending the Girondins—the political enemies of the Jacobins.  Olympe de Gouges attempts to publish the poster <i>Les Trois Urnes, ou le Salut de la Patrie, par un Voyageur Aérien</i> .  Olympe de Gouges is arrested, tried, and executed by guillotine.

# Glossary

**Constitutional monarchy:** A form of government in which a king or queen acts as the head of state. The capability to make and pass laws resides with an elected parliament.

**Dethrone:** To oust or overthrow from power.

**Federalist government:** A system of government in which a nation is controlled by two levels of government. A national government oversees issues that affect the entire country, while smaller divisions govern issues of local concern.

**Girondins:** A political group from the region of Gironde. They were political opponents of the Jacobins.

**Jacobins:** The most radical of the political groups formed during the Revolution. In association with their acknowledged leader, Robespierre, they instituted the Terror of 1793–1794.

**Plebiscite:** A direct vote of all the members of an electorate on an important public question, such as constitutional changes.

**Republic:** A sovereign state or country that is organized with a form of government in which power resides with elected individuals representing the citizen body and government leaders exercising power according to the rule of law.

**Sedition:** Conduct or speech inciting people to rebel against the authority of a state or monarch.

# Postscript

Just prior to her execution, Olympe de Gouges wrote a last letter to her son saying, "My dear son, I am dying, a victim of my idolatry for my country."<sup>1</sup> She bravely mounted the scaffold on the Place de Concord, at four o'clock in the afternoon on 13 Brouaire, 1793, according to the revolutionary calendar. Within seconds, her severed head was displayed to the cheering crowd of spectators. An epitaph written in the French newspaper *Le Moniteur Universel* revealed that despite de Gouges's courageous death and legacy, the Revolution had not really championed the cause of women. It said that Olympe de Gouges "wanted to be a Statesman; it would seem that the law has punished this plotter for having forgotten the virtues suitable to her own sex."<sup>2</sup> After the fall of the Jacobins, her supporters published two of her works, including *Olympe de Gouges at the Revolutionary Tribunal*, which is an account of some of her interrogations during her trial. In her last work, *A Female Patriot Persecuted*, she condemned the period in French history known as the Terror.

Olympe de Gouges is buried in the Madeleine Cemetery in Paris, a martyr to the cause of feminism and freedom.



Exécution d'Olympe de Gouges

<sup>1</sup> Mousset, 96.

<sup>2</sup> Mousset, 97.

Image source: Courtesy of Mettais, via Wikimedia Commons.



## Discussion Questions

1. Do you think Olympe de Gouges received a fair trial? If not, what were the most egregious parts of the trial?
2. Do you think Olympe de Gouges would have had a better chance of acquittal if she had been allowed to have the benefit of an attorney and defense witnesses?
3. Do you think the fact that Olympe de Gouges was an early feminist had anything to do with her trial and conviction? For example, she famously said that women must use their power over men because "isolated, man is our slave; it is only when reunited in mass that they overwhelm us in their pride." Discuss.
4. One of the revolutionary leaders Olympe de Gouges most objected to was the Jacobin leader Robespierre. He allegedly said to his fellow revolutionaries, "Gentlemen, do you want a revolution without a revolution?" How do you think Olympe de Gouges would have responded to this statement?
5. Most accounts of Olympe de Gouges's last words have her saying, "Children of the Fatherland, you will avenge my death." However, some witnesses say they heard her say "Oh fatal aspiration to fame! I wanted to be somebody!" Which of these do you think is more likely true? Why?
6. Read the Documentary Evidence, an excerpt from *The Three Urns*, and discuss why the revolutionary tribunal would have found these words objectionable.

## Extension Activities

1. Olympe de Gouges was the author of many works, including several plays. One of these plays was written in defense of black liberty from enslavement. Write a critical analysis of one or more of these literary works.
2. Write a critical essay in which you compare the philosophy of Olympe de Gouges expressed in *Declaration of the Rights of Woman and the Female Citizen* with that of British author Mary Wollstonecraft expressed in *A Vindication of the Rights of Woman*. How were they similar? How were they different?

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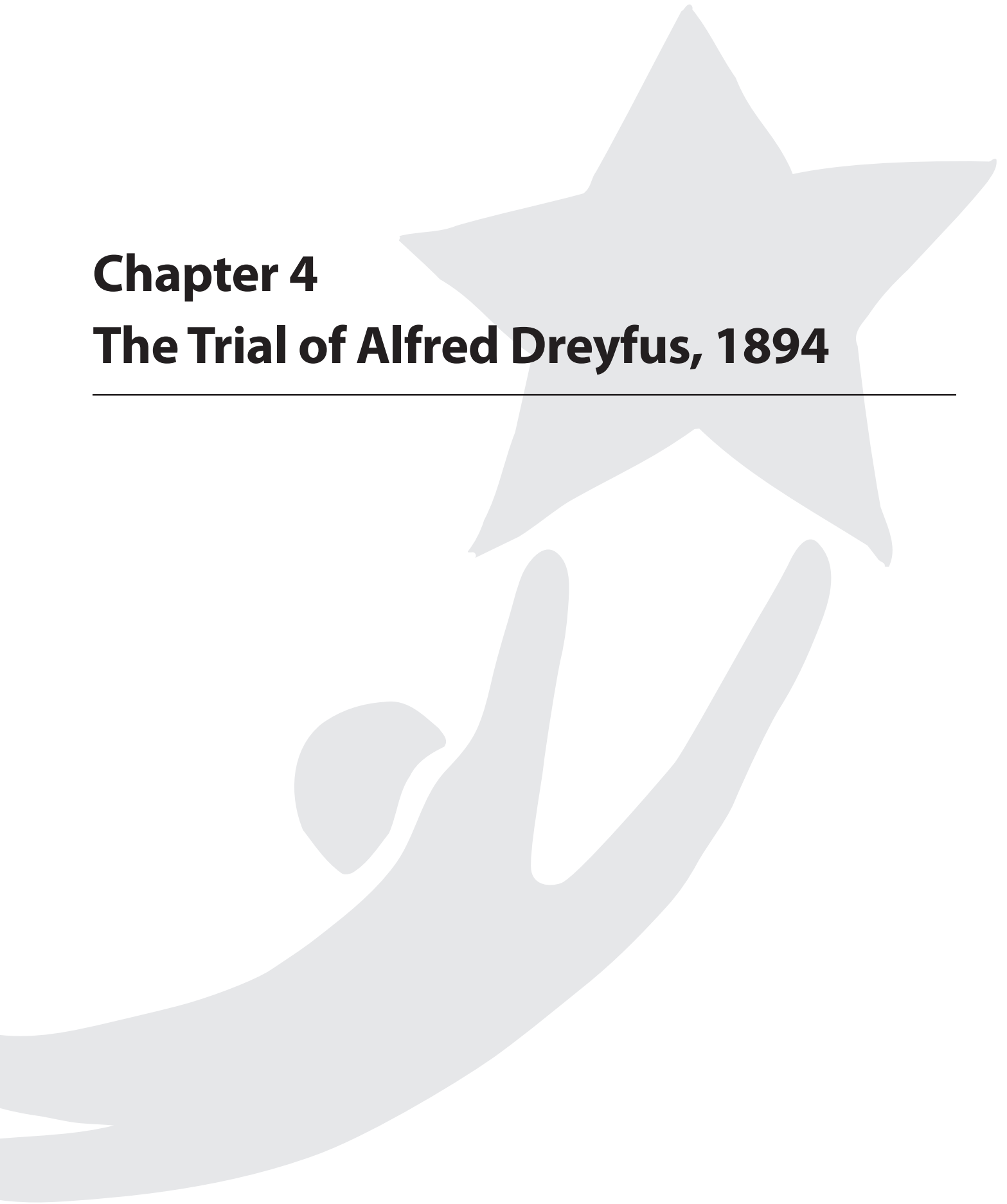
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## **Chapter 4**

# **The Trial of Alfred Dreyfus, 1894**

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## ● Introduction ●

The trial of Captain Alfred Dreyfus, a Jewish artillery officer in the French army, began on December 19, 1894, at the Cherche-Midi prison in Paris and lasted four days. It became the most celebrated trial in French history since that of Joan d'Arc. Although Dreyfus was ultimately acquitted, after many years of suffering in prison, the trial's repercussions are arguably still being felt in France today.

### **Objectives**

1. Students will understand the international rivalry and mistrust that existed between France and Germany at the end of the nineteenth century.
2. Students will know the facts of the Dreyfus Affair and how it revealed anti-Semitism in French society and the military.

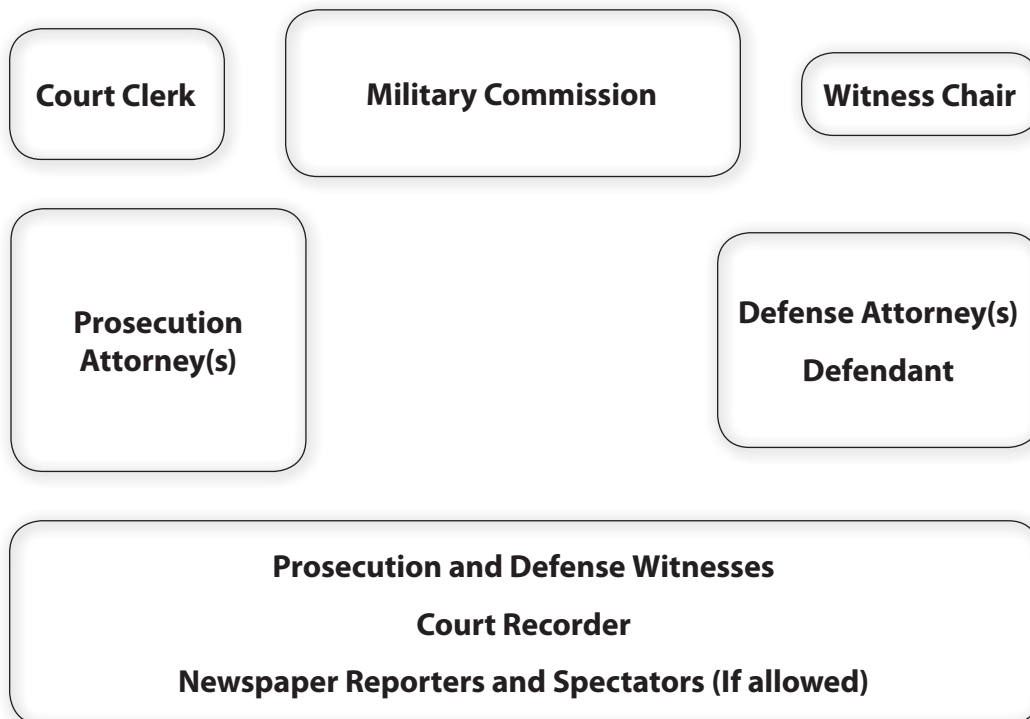


## Lesson Plan

### Trial Procedure

1. Opening remarks by the prosecuting attorney(s).
2. Opening remarks by the defense attorney(s).
3. Direct testimony and cross-examination of the prosecution witnesses.
4. Summary remarks by the defense attorney(s).
5. Summary remarks by the prosecution attorney(s).
6. Military commission returns to the court and Colonel Maurel delivers the verdict.
7. If Captain Dreyfus is declared guilty, then Colonel Maurel asks the defendant if he would like to make a last statement. He will say yes. After his statement, Colonel Maurel will sentence him to life in prison on Devil's Island.

### Diagram of Courtroom Seating



### **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 Extension Activities.

### **Notes for the Teacher (role play)**

1. This trial is a historical representation of the first of Dreyfus's three trials: the first two of which found him guilty. The dialogue is based on actual reports of testimony given at the trial, but it is not a word-for-word transcript, which does not exist. To make the trial more comprehensible for students, the scripted version of the trial follows the more familiar American criminal court procedure, although in most French criminal cases there is typically much less use of cross-examination.
2. Read and discuss with students the Background Essay. Tell students they may use this information in preparing their role for the trial.
3. For the role play, divide the class into prosecution and defense.
4. 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. Note that the role of the defendant, Captain Alfred Dreyfus, is the most demanding.
5. The actual trial did not permit any spectators, newspaper reporters, or even Dreyfus's brother. However, you may decide to allow these roles. Note that they are not included in the scripted version.
6. Unless you have a very capable student, it is advisable for the teacher to perform the role of Colonel Maurel.
7. 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 and practice their direct testimonies and answers to any suspected cross-examination questions. You may decide to allow them to refer to their depositions while testifying, rather than relying totally on memory.
8. You should set up the classroom to look like the actual military court setting (see Diagram). The seven judges, including the court president Colonel Maurel, Commandants Florentin and Patron, Lieutenant Colonel Echemann, and Captains Jules Roche and Martin Freystaetter, are seated

in the front of the room. On one side is a witness stand and on the other side, chairs for Court Clerk Monsieur Vallecalle; the defendant Alfred Dreyfus; his attorney, Monsieur Demange; and the prosecuting attorney, Commandant Andre Brisset. Witnesses should be seated to the rear of the classroom along with the representative of the General Staff, Commandant Georges Picquart.

9. If you want to complete the trial in one class session, you will need to allot and enforce strict time limits depending on the length of your class period:
  - 5 minutes for Colonel Maurel and the clerk to read the charges and receive Dreyfus'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 Dreyfus and defense witnesses
  - 5 minutes for cross-examination of selected defense witnesses
  - 2 minutes for defense closing remarks
  - 2 minutes for prosecution closing remarks
  - 2 minutes for any closing remarks from Colonel Maurel and for sentencing
10. Advise the students playing attorneys for the defense 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 to these students is to never ask a question that they don't already know the answer to.
11. Try to match roles to student personalities and academic strengths. For attorneys, it is particularly important that you select students who are well-organized and not afraid to speak in front of the class.
12. While the commission is deliberating the verdict, you can engage the rest of the class with the Discussion Questions.

**Teaching Tip**

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.

### **Suggested Schedule (scripted version)**

#### **Day One:**

1. Explain to students that they will be reading a re-creation of the first treason trial of Captain Alfred Dreyfus.
2. Review the Background Essay with students.
3. Assign students roles for the play.
4. Read the play.
5. Debrief using the Discussion Questions.

**Day Two:** Continue debriefing and Extension Activities.

### **Notes for the Teacher (scripted version)**

1. Read and discuss the Background Essay.
2. Assign students speaking roles in the play. Note that the roles of the narrator, Colonel Maurel, and the prosecution and defense attorneys have the lengthiest speaking parts.
3. Prior to students coming to class, you may decide to set up the classroom to look like a courtroom (see Diagram). It adds more realism to the drama.
4. Read the play.
5. Debrief using the Discussion Questions.
6. Assign Extension Activities.

## Roles Grid

Role	Historical Character	Student Name
<b>Head of Military Commission</b>	Colonel Maurel	
<b>Clerk/Bailiff</b>		
<b>Military Commission</b>	Commandant Florentin	
	Commandant Patron	
	Lieutenant Colonel Echemann	
	Captain Jules Roche	
	Captain Martin Freystaetter	
<b>Defendant</b>	Alfred Dreyfus	
<b>Defense Attorney</b>	Edgar Demange	
<b>Assistant Attorney (optional)</b>		
<b>Defense Witnesses</b>	Rabbi Zadoc Kahn	
	Professor Lucien Lévy-Bruhl	
	Captain Mercier-Milon	
	Captain Charles-Edmond Toccanne	
<b>Prosecution Attorney</b>	Commander Andre Brisset	
<b>Assistant Attorney (optional)</b>		
<b>Prosecution Witnesses</b>	Major Hubert-Joseph Henry	
	Lieutenant Colonel Armand du Paty de Clam	
	Alphonse Bertillon	
<b>Court Recorder</b>	Major Georges Picquart	
<b>Defendant's Brother</b>	Mathieu Dreyfus	
<b>Newspaper Reporter, L'Aurore (Pro-Dreyfus)</b>		
<b>Newspaper Reporter La Libre Parole (Anti-Dreyfus)</b>		



### Teaching Tip

If you have a small class, you can reduce the number of officers on the military commission. If you have a large class, you can expand the tribunal.

# Background Essay



Alfred Dreyfus at his trial

France suffered a humiliating defeat in the Franco-Prussian War (1870–1871) that led to the unification of Germany and to France losing two provinces: Alsace and Lorraine. Determined to rebuild its army, the French military desperately wanted to keep its military secrets out of German hands.

Early in 1894, a French counterespionage officer, Major Hubert-Joseph Henry, received the torn up contents of a wastebasket from a French spy, a cleaning woman named Madame Bastian, who worked in the German Embassy in Paris.<sup>1</sup> He pieced together a memorandum addressed

to a German military attaché, Maximilian von Schwartzkoppen, that said secret military information was about to be revealed to a foreign power. This document later became known as the *bordereau*, and it suggested that the author would soon reveal detailed information about the French 120mm cannon, artillery manuals, and disposition of artillery formations—all highly classified information.<sup>2</sup> Henry came to the conclusion that someone in the French army was preparing to give, and might already have given, secret information to the Germans. Who could that be?

<sup>1</sup> Leslie Derfler, *The Dreyfus Affair* (Westport, CT: Greenwood, 2002) 117.

<sup>2</sup> Derfler, 118.

Image source: *Capitaine Dreyfus à son procès*. Henri Meyer, 1894, Bibliothèque nationale de France.



Henry scanned the names of French officers that might have access to the kind of information referred to in the *bordereau*, and concluded that the most likely spy was Captain Alfred Dreyfus. Why? He was an artillery officer attached to the French General Staff; he was from Alsace, one of the territories annexed by Germany after the Franco-Prussian War; and he spoke German. Also, he was a Jewish officer in a predominately Catholic French army. Finally, an alleged handwriting expert, Lieutenant Colonel Paty du Clam, confirmed to Henry that Dreyfus's handwriting, though not an exact match, was similar to that used in the *bordereau*.<sup>3</sup> He suggested that any inconsistency was probably because the author was trying to deliberately disguise his handwriting.

Captain Alfred Dreyfus was arrested and jailed. He was utterly shocked. Dreyfus was by all accounts a very reserved and calm man, but when he was put into his prison cell, he completely lost his composure, screaming in pain, pacing back and forth in the cell, and banging his head against the walls.<sup>4</sup>

Then the French army began a secret investigation into the matter. The evidence against Dreyfus was very sketchy at best, and they wanted to be sure that they had the right man. General Mercier, the minister of war, realized that the best solution would be to get Dreyfus to confess.<sup>5</sup> However, during his preliminary

investigation, Dreyfus adamantly declared his innocence saying that he never wrote to any agent of a foreign power, like Germany, and could only imagine that someone was mimicking his handwriting. Furthermore, he was only a junior officer attached to the General Staff, and he never even had access to the kinds of information relating to artillery contained in the *bordereau*.<sup>6</sup> However, two weeks after his arrest, word leaked out (probably from an officer on the General Staff) that a Jewish artillery officer was being investigated for espionage. The news first appeared in a popular daily newspaper, *La Libre Parole*, known for printing anti-Semitic stories.<sup>7</sup> This left the French army with little choice. It charged Dreyfus with high treason and prepared to launch a formal court martial.

The 1848 French constitution had abolished the death penalty for political crimes like treason, so Dreyfus only faced the possibility of a ceremonial military degradation, followed by deportation and imprisonment for life on the infamous Devil's Island located off the coast of French Guiana.

The stage was set for what, many today believe, was the trial of the century, unleashing arguably the most significant political scandal in French history.

You will now have the chance to participate in either a role play or a scripted version of this famous trial.

3 Robert L. Hoffman, *More Than A Trial: The Struggle over Captain Dreyfus* (New York: Free Press, 1980), 3.

4 Martin Phillip Johnson, *The Dreyfus Affair: Honour and Politics in the Belle Epoque* (New York: St. Martin's, 1999), 18.

5 Barbara W. Tuchman, *The Proud Tower: A Portrait of the World Before the War, 1890–1914* (New York: Macmillan, 1966), 203.

6 Michael Burns, *France and the Dreyfus Affair: A Documentary History* (Boston: Bedford/St. Martin's, 1999), 30.

7 Hoffman, 4.

# Roles

## Court President: Colonel Maurel

You are the head of a military tribunal that has been assembled to try a French artillery officer for allegedly treasonously spying for Germany. It will be your job to run the trial, along with the other members of the tribunal, in the capacity of both judge and jury. You will hear the evidence and then decide whether the defendant is guilty or innocent.

First, you should make an opening statement, saying that a military commission has been assembled to try Captain Alfred Dreyfus for treason. Second, you should instruct the court clerk to read the charges against the defendant. He will declare himself not guilty and then the trial should commence according to the following schedule:

1. Reading of the charges against the defendant, and his plea
2. Prosecution opening remarks
3. Defense opening remarks
4. Direct testimony from prosecution witnesses, and cross-examination
5. Direct testimony from defense witnesses, and cross-examination
6. Prosecution closing remarks
7. Defense closing remarks
8. Deliberation and sentence

The defense attorney may ask that the court remain open to the public. You and the other officers will briefly retire to discuss this request, and when you return to the courtroom, you will deny the request saying that a “closed session is our only defense against foreign nations that would like nothing more than to learn the details about our military that may be revealed during testimony.”

If Dreyfus is found guilty, you will sentence him to degradation and to transportation to the French penal colony on Devil’s Island to serve a life sentence in prison.

## Officers of the Court

### Commandant Florentin, Commandant Patron, Lieutenant Colonel Echemann, Captain Jules Roche, Captain Martin Freystaetter

You are a member of a military tribunal that has been assembled to try a French artillery officer for allegedly treasonously spying for Germany.

It will be your job to hear the evidence and then decide whether he is guilty or innocent.

## Defense Attorney: Edgar Demange

You have agreed to defend Captain Alfred Dreyfus, who has been accused of treasonously spying for Germany.

At the beginning of the trial, you should make an initial motion requesting that the court remain open to the public. You believe that the honor of an officer of the French army, Captain Alfred Dreyfus, has been exposed without defense to the most outrageous charges. He is completely innocent, and the public must have a chance to hear him refute these outrageous accusations. Unfortunately, your request may be denied by the military tribunal.

In your opening remarks, you should present your theory of the case and what you will attempt to prove. You will then use your witnesses and any cross-examination of prosecution witnesses to buttress your case. In your closing remarks, you will summarize your case for why your client is not guilty. You should focus on the following in developing your case:

- Captain Dreyfus has always been a loyal member of the French officer corps.
- He is a family man who, despite coming from a well-to-do family, decided to serve his country.
- Money would clearly not be a motive for him. In fact, you can find no motive that would have induced him to spy for Germany.
- Although he was a member of the General Staff, he had no means to spy. There is not a shred of evidence to support this claim. The facts will show that he has never even been in the German Embassy much less conspired with any German agent.
- Although he has experience as an artillery officer, he was not familiar with the 120mm cannon that the prosecution alleges he exposed to the Germans in the *bordereau*.
- The prosecution's handwriting experts have only demonstrated superficial similarities between his handwriting and that found in the *bordereau*. In fact, the contents of the *bordereau* have shown that it could not be the work of Captain Dreyfus.

All the accusations against him are based on innuendos and hypotheticals. His whole career has been an affirmation of his dedication and loyalty to the army and the French nation.

The court should swiftly move to find Captain Dreyfus not guilty and immediately restore him to his former position.

### Prosecution Attorney: Andre Brisset

You will be in charge of prosecuting Captain Alfred Dreyfus, who has been accused of treasonously spying for Germany. In your opening remarks, you should present your theory of the case and what you will attempt to prove. You will then use your witnesses and any cross-examination of defense witnesses to buttress your case. In your closing remarks, you will summarize your case for why Captain Dreyfus is guilty. You should focus on the following in developing your case:

- Captain Dreyfus was an artillery officer, serving on the General Staff, where he had access to top-secret information, including sensitive aspects of the French artillery manuals and the innovative 120mm cannon.
- He was such a bold spy that he even wrote out messages in his own handwriting.
- One of his messages was intercepted by French intelligence and was shown to contain incriminating information about French military maneuvers and also about the top-secret 120mm cannon. You have a copy of this message (the *bordereau*) and should be prepared to show it to the court and describe its contents. You have witnesses that will attest to the fact that Dreyfus's handwriting is similar to that found in the *bordereau*.

Your most important witness is Major Henry, although he will be reluctant to reveal the sources of his information.

You will be able to cross-examine Captain Dreyfus, and you should try to get him to admit that he held a great deal of resentment toward the French army. He believed they were prejudiced against him because of his religion and because he was born in Alsace. He also resented the fact that he had not been promoted to a higher rank, even though he had scored very high on his tests at the War College. You will also question him regarding his knowledge as an artillery officer, which would make him an ideal candidate to reveal information about the new 120mm cannon. Also, the *bordereau* ends with the words, "I'm leaving on maneuvers," and, at that time, the defendant went on maneuvers with his unit.

### Alfred Dreyfus

You are a thirty-five-year-old artillery officer in the French army, a captain, attached to the General Staff, Second Bureau. You have been accused of spying for Germany. You will testify to the following details:

On Saturday, October 13, you received a service note ordering you to report the following Monday at nine o'clock in the morning to the Ministry of War for a general inspection. It was expressly said that you were to come in civilian attire. The hour seemed early for general inspection, which ordinarily took place in the evening, and the notice to appear in civilian attire also surprised you. However, on Monday morning you said goodbye to your family and left your home for the Ministry of War. You arrived early at the ministry, so you strolled outside for a few minutes in front of the building. You remember it being very cold. Then you entered the building and climbed the stairs to the offices. Upon your arrival, you were received by Major Picquart, who immediately led you into his office. He greeted you very curtly and then took you to the office of the General Staff. When you entered, you were somewhat surprised to find yourself in the presence of Lieutenant Colonel Paty de Clam, who was standing behind his desk in full uniform.

Lieutenant Colonel Paty de Clam came over to you and said that he had a letter he wanted you to write for him. He claimed that he had hurt his fingers and couldn't write well. You found this a bit odd, but you never question orders, so you seated yourself at a small table and took up a pen. Lieutenant Colonel Paty de Clam stood right next to you, looking over your shoulder. First, he had you fill out an inspection form and then he began dictating a letter. During the dictation, he interrupted you several times asking you, in a rather hostile voice, why you were trembling. You had only been in a heated room for a few minutes, so you told him that your fingers were cold. You did not suspect anything. In fact, you thought he was being critical of your penmanship. You continued to write without showing any sign of distress. Then you remember him saying, "Pay attention. This is serious!" You were surprised by this tone but said nothing and applied yourself to writing what he was dictating. After a few minutes more of writing, he put his hand on your shoulder and cried out in a resounding voice, "In the name of the law, I arrest you for treason."

When you heard this, it was like you had been hit by a bolt of lightning. You were in a state of shock and confusion. You couldn't believe it. You protested, but it was to no avail. Guards entered the room, arrested you, and took you to jail. At this time, you had no idea why you were being detained. Only later did you learn it was an attempt to compare your handwriting to that

of a suspected spy in the German Embassy. You adamantly denied making any attempt to disguise your handwriting.

You will deny engaging in any traitorous activities related to the German Embassy or any other individuals or locations. You will maintain that you are a loyal French officer who would never betray your country.

Before you have a chance to testify, you will undoubtedly have to listen to the erroneous and hate-filled deposition of Lieutenant Colonel Paty de Clam and the lying testimony of Major Henry. You will have to endure the contradictory and false reports of so-called handwriting experts, while noting the numerous differences between the handwriting in the *bordereau*, an incriminating document allegedly written by you, and your own penmanship. You will completely deny having anything to do with writing the *bordereau*.

You do admit that when you left the War College, you felt some discontent because you were only ranked number nine in the officer seniority list. You were told by a friend that one of the examiners at the War College said that they did not want officers of your religion—Judaism—on the General Staff. You were saddened by this religious prejudice, but you did not let it bother you. Although, after your final exams—in which you received poor scores—you did mention it to the director of the War College. The director received you very benevolently, saying that he already knew about these prejudicial statements and regretted them. Although you did not receive very good grades on your exams, you were happy with your rank so you did not pursue the matter further.

Under cross-examination, you will undoubtedly be subjected to several questions related to your training as an artillery officer, your participation as a member of the General Staff, and your knowledge of some of the specifics revealed in the *bordereau*. You will admit that you had access to top-secret information but deny revealing any of that information to the Germans, especially the particulars of the highly secret 120mm cannon. You only saw one of these cannons in artillery school and were never privy to the details of its operation. The *bordereau* ends with these words: "I'm leaving on maneuvers." You will admit that you did go on maneuvers at this time, but it was purely a coincidence.

Prior to the deliberation by the officers trying your case, you will be allowed some last words. You should say, "I am a true son of France, born in Alsace—our beloved province taken by Germany in the last war. I could never commit the hideous crimes of which I am accused. *Vive la France!*"

### Court Clerk/Bailiff

You will be assisting Colonel Maurel and the rest of the military tribunal in running the trial. At the beginning of the trial, you will be instructed by Colonel Maurel to ask the accused, Captain Dreyfus, to rise. Then you will read the charges against him. You will say, "You have been charged with high treason against France—how do you plea?" The defendant will plead not guilty and the trial will commence.

Colonel Maurel will also instruct you to swear in each witness. You will say to them, "Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?"

**Major Georges Picquart**

You are a French intelligence officer commissioned by the ministers of war and the chief of the General Staff to report on the trial. You will be expected to keep notes about what is said during the trial and to turn those notes over to the military commission prior to their deliberation at the end of the trial.

**Prosecution witnesses****Major Henry**

You are a tall, extremely confident officer in the French army, attached to the counterintelligence section. You proudly display the Legion of Honor, one of France's highest military honors, on your uniform. It was your job to find any spies that might be revealing information to foreign governments, especially Germany. You will testify that you have an informant who told you that there was a spy in the French General Staff. The informant said that the spy was an officer in the Second Bureau, which was a section that handled a lot of top-secret information. You will say that, after careful investigation, you believed the traitor was Captain Alfred Dreyfus.

You may be requested by the court to reveal your sources of information; however, you will refuse, citing the fact that you are an intelligence officer, and you do not want to compromise your sources. You will be willing to swear to the court as an officer and a gentleman that everything you say is true.

You will be willing to admit that you did obtain a document from one of your spies in the German Embassy, a maid. She found the document in a wastebasket, but you managed to piece it together. This document will be called the *bordereau*, and the prosecution attorney has a copy of it. The document lists very damaging specifics about the French military that could be revealed to Germany for money. It lists information related to troop distributions and damaging facts about the new 120mm cannon. You will testify that you subjected this document to handwriting experts, who concluded that it was likely written by Captain Dreyfus. Finally, you will deny that Captain Dreyfus being a Jewish officer had anything to do with why you suspected he was a spy. However, you did believe that the fact that he was from Alsace, a region now controlled by Germany, made you somewhat suspicious.

**Lieutenant Colonel Armand du Paty de Clam**

You are a French intelligence officer attached to the army chief of staff. You were instructed to conduct an analysis of the defendant's handwriting and to determine whether it was similar to the script on the *bordereau*. You sent instructions to Captain Dreyfus to report to the office of the General Staff and to dress in civilian clothes. When he arrived, you asked him to sit at a desk and write out a letter in his best script. You told him at the time that your hand was injured, which was the reason why you were not writing the letter yourself. You believe that he was trembling with fear while he was writing. Later, you compared his handwriting with that of the *bordereau*, and it was very similar.



**Alphonse Bertillon**

You are a police investigator. Your specialty is anthropometry, the scientific study of the measurements and proportions of the human body. You will testify that your knowledge of human anatomy makes you a handwriting expert. You will testify that there are two types of handwriting: script sloping to the right and script sloping to the left. The traitor's handwriting was sloping to the left and the defendant's sloped to the right. However, you believe that the defendant was deliberately trying to disguise his handwriting. In fact, you are sure that he went as far as to use at least three different specimens of handwriting: his own, his brother's, and his wife's.

**Defense Witnesses****Captain Mercier-Milon**

You served with Captain Dreyfus in the French artillery for several years. You always found him to be a faithful and scrupulous soldier. You believe that he would never, under any circumstances, betray his country. You will admit that you and Captain Dreyfus knew some basic information about the highly classified 120mm cannon and that this information would have been of interest to Germany.

**Captain Charles-Edmond Toccanne**

You were a friend and classmate of Captain Dreyfus at the *Ecole de Guerre*—the French war academy. You were in the same topography class. You found him to be a dedicated student, and cannot believe that he was capable of any crime—especially treason.

**Rabbi Zadoc Kahn**

You are the grand rabbi of France, the highest position in the Jewish religion in France. You have known Captain Dreyfus for many years, as a friend and as his rabbi. You believe that he is a true professional soldier, and a French patriot with a sterling character. You will admit that Captain Dreyfus and his family gave large sums of money to support his faith, but will say that it was no more than any other wealthy Jewish family in France.

**Professor Lucien Lévy-Bruhl**

You are a university professor and a writer. In fact, you are one of France's most celebrated philosophers. You have also made significant contributions to the field of ethnology, especially in understanding primitive mentality. You have known Captain Dreyfus for many years, and you agree entirely with what Rabbi Kahn said about his character. You do not believe he would ever betray France.

**Mathieu Dreyfus**

You are the defendant's brother and are utterly convinced that he is innocent. You will testify to his character and commitment to his family and the French military. Since your family is very wealthy, you will testify that your brother had absolutely no need to betray his country for money. You believe the sole reason he is under suspicion is because he is Jewish and was born in Alsace—a region currently under the control of Germany.

# Script: Trial of Alfred Dreyfus

## Scene One: The Prosecution

**NARRATOR:** The trial of Captain Alfred Dreyfus began on December 19, 1894, at the Cherche-Midi prison in Paris and lasted for four days. The rear of the courtroom was packed with spectators, including the defendant's brother, Mathieu. The court consisted of seven military officers, with Colonel Maurel presiding as president. The defense attorney, Edgar Demange, was convinced that Captain Dreyfus was innocent and was being framed. The prosecuting attorney, Andre Brisset, felt otherwise and intended to reveal Captain Dreyfus as a traitor.

**COURT CLERK:** All rise.

**COLONEL MAUREL:** Please read the charges against the defendant, Captain Alfred Dreyfus.

**COURT CLERK:** Will the accused please rise? You have been charged with high treason, of having turned over secret information about our military to a foreign power—information that will be enumerated in a document called the *bordereau*. The law gives you the right to say all that is of use in your defense. However, you must express yourself with decency and moderation.

**COLONEL MAUREL:** How do you plea?

**DREYFUS:** *(Staring blankly at the court officers through his pince-nez glasses, the defendant replies in a dull monotonous voice)* I am innocent.

**EDGAR DEMANGE:** *(Rising from his seat)* Colonel Maurel, the defense humbly asks that the court remain open to the public. For seven months the honor of an officer of the French army has been exposed without defense to the most outrageous arguments. He is completely innocent. The public must have a chance to hear him refute these outrageous charges.

**COLONEL MAUREL:** The court will retire to discuss your request.

**NARRATOR:** The seven judges briefly leave the courtroom. When they return, there is a hushed silence.

**COLONEL MAUREL:** Your request is denied. A closed session is our only defense against foreign nations that would like nothing more than to learn the details about our military that may be revealed during testimony. A closed session will shield us from those madmen who desire nothing more than ruining the peace of Europe. *(Turning to the other judges)* We all agree on this procedure.

**OTHER JUDGES:** *(They all nod).*

**COLONEL MAUREL:** Clerk, escort the public from the courtroom.

**NARRATOR:** The public leaves the courtroom, including Dreyfus's brother, Mathieu, and the trial proceeds with only the seven judges, the prosecutor, the defense attorney, the defendant, and the witnesses. Also permitted to stay was Major Georges Picquart, commissioned by the ministers of war and the chief of the General Staff to report on the trial.

**COLONEL MAUREL:** M. Brisset, do you have any opening remarks?

**BRISSET:** (*Rising from his seat*) Yes, Colonel. As the court well knows, we have many powerful nations that would like nothing better than to get their hands on information about our beloved French army, especially Germany. To think that one of our own army officers would willingly spy for that nation is almost unthinkable. The facts will now show that that French officer is in this courtroom—he is Captain Alfred Dreyfus.

**COLONEL MAUREL:** M. Demange, do you have any opening remarks?

**DEMANGE:** Yes, Colonel. The defense will show that Captain Dreyfus is a loyal member of the French officer corps. He is a family man who, despite coming from a well-to-do family, decided to serve his country. Money would not be a motive for him. In fact, he had no motive to spy. He had no means to spy. The facts will show that he has never even been in the German Embassy, much less conspired with any German agent. He is no traitor, Colonel, and the defense will demonstrate to the court that all of the accusations against him are based on innuendos and hypotheticals that cannot be substantiated with concrete facts.

**COLONEL MAUREL:** Prosecution may call their first witness.

**BRISSET:** The prosecution calls Major Henry to the witness stand.

**NARRATOR:** Major Henry—tall, bull-chested, wearing the rosette of the Legion of Honor—confidently strides to the witness stand.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**HENRY:** I do.

**BRISSET:** Major Henry, what is your military position?

**HENRY:** (*Speaking in a loud and authoritative voice*) I am the assistant to Colonel Sandherr in the counterintelligence office of the French army.

**BRISSET:** Explain to the court your knowledge of this case.

**HENRY:** I have an informant who told me that there was a spy in the French General Staff. He said that the traitor was an officer in the Second Bureau—a very high office, as you well know—privy to important French military secrets.

**BRISSET:** And what was your reaction to this news?

**HENRY:** I was astonished. A spy in our General Staff—the most important branch of our army. I couldn't believe it was possible. However, I soon learned that he was right. That spy is in this very room. (*Turning and looking at Captain Dreyfus*) The traitor is sitting right there!

**DEMANGE:** (*Rising*) Objection, your honors! Major Henry must say more. He must prove this outrageous charge.

**BRISSET:** Major Henry, can you tell the court why you are convinced that Captain Dreyfus is the traitor?

**HENRY:** You must remember that I am a counterintelligence officer (*pointing to his hat*), and there are some secrets that must remain under my cap.

**COLONEL MAUREL:** I understand your reluctance to reveal your sources, but do you swear and affirm on your honor as a French officer that Captain Dreyfus is the spy?

**HENRY:** (*Pointing to the large crucifix hanging in the court*) I swear on my honor as an officer and a gentleman that he is the spy.

**DREYFUS:** (*Rising from his seat*) You are lying! I am no traitor.

**DEMANGE:** (*Rising from his seat and pushing Dreyfus down*) Objection, your honors. How can the court even consider a statement like this without further proof?

**COLONEL MAUREL:** Do you have any further proof, Major Henry?

**HENRY:** Yes, I have a document given to me by one of our spies in the German Embassy, a maid. She found it in a wastebasket, torn up, but I managed to put the pieces back together.

**BRISSET:** (*Showing the court the document—the bordereau*) Is this the document?

**HENRY:** Yes.

**BRISSET:** Please tell the court what this paper says.

**HENRY:** It lists specifics about our military that could be turned over to Germany for money.

**BRISSET:** And would these military secrets have been damaging to our military?

**HENRY:** Very damaging.

**BRISSET:** Can you be more specific?

**HENRY:** It lists information related to our troop distributions and, most damaging, specifics related to our new 120mm cannon. I really cannot say more . . . it is highly classified, I'm sure you understand.

**BRISSET:** Who do you think wrote this paper?

**HENRY:** I firmly believe that it was written by Captain Dreyfus, and I am sure that our handwriting experts will confirm this fact.

**BRISSET:** No further questions.

**COLONEL MAUREL:** Monsieur Demange, do you have any questions for this witness?

**DEMANGE:** I do, your honor. (*Looking at Major Henry and speaking in a sarcastic tone*) In your elevated capacity as an intelligence investigator, don't you find it rather odd that an actual spy would not take better precautions when disposing of incriminating documents and to disguise his identity—especially his handwriting?

**HENRY:** I suppose so.

**DEMANGE:** Major Henry, isn't it true that because Captain Dreyfus is a Jewish officer from Alsace, you immediately saw him as the most likely suspect?

**HENRY:** His religion was of no concern to me . . . but the fact that he was from Alsace—a region now controlled by Germany—was very troubling.

**DEMANGE:** No further questions.

**COLONEL MAUREL:** The witness may step down. Prosecution may call its next witness.

**BRISSET:** The prosecution calls Lieutenant Colonel Paty de Clam.

**CLERK:** Do you swear to tell the truth, the whole truth, and nothing but the truth?

**PATY DE CLAM:** I do.

**BRISSET:** State your name for the court.

**PATY DE CLAM:** Lieutenant Colonel Armand du Paty de Clam.

**BRISSET:** What is your occupation?

**PATY DE CLAM:** I work for the army chief of staff.

**BRISSET:** Explain to the court your experiment regarding the handwriting of the defendant.

**PATY DE CLAM:** I sent instructions to Captain Dreyfus to report to the office of the General Staff and to dress in civilian clothes. When he arrived, I asked him to sit at a desk and write out a letter in his best script. I told him at the time that my hand was injured and that was the reason why I was not writing the letter myself. He looked a bit worried.

**BRISSET:** What did you observe while watching the defendant write the letter?

**PATY DE CLAM:** He seemed to me to be trembling with fear. Like he was hiding something.

**BRISSET:** And did his handwriting match what was written in the *bordereau*?

**PATY DE CLAM:** It was not an exact match, but it was similar.

**BRISSET:** No further questions.

**COLONEL MAUREL:** M. Demange, do you have any questions of this witness?

**DEMANGE:** Isn't it true that his so-called trembling was because he was cold? . . . and he told you so when he entered the office?

**PATY DE CLAM:** I don't remember . . . I think that maybe Captain Dreyfus was trembling because he had been alerted by someone that he was under suspicion of being a spy.

**DEMANGE:** (*In a sarcastic tone*) And who might that be? Another spy? . . . or several spies? Maybe the entire General Staff is infected with spies.

**BRISSET:** Objection. The defense is being impertinent.

**DEMANGE:** I withdraw the question, Colonel. I meant no disrespect to the court. I have no further questions.

**COLONEL MAUREL:** Prosecution may call its next witness.

**BRISSET:** Prosecution calls Alphonse Bertillon.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**BERTILLON:** I do.

**BRISSET:** What is your occupation?

**BERTILLON:** I am a police investigator. My specialty is anthropometry—the scientific study of the measurements and proportions of the human body.

**BRISSET:** What evidence would you like to present to the court?

**BERTILLON:** There are two types of handwriting: script sloping to the right and script sloping to the left. The traitor's handwriting was sloping to the left and the defendant's sloped to the right.

**BRISSET:** What? They were different?

**BERTILLON:** It was clear to me that the defendant was trying to disguise his handwriting. In fact, I am sure that he went as far as to use at least three different specimens of handwriting: his own, his brother's, and his wife's.

**BRISSET:** No further questions.

**COLONEL MAUREL:** M. Demange, do you wish to question this witness?

**DEMANGE:** Yes, your honor. M. Bertillon, how can you be so sure it was Captain Dreyfus's handwriting? You are not even a handwriting expert. (*Sarcastically*) In fact, how can you be sure of anything?

**BRISSET:** (*Rising from his seat*) Objection, your honor. Badgering the witness.

**DEMANGE:** My apologies, your honor. I withdraw my question.

**COLONEL MAUREL:** M. Brisset, do you have any further witnesses?

**BRISSET:** No, Colonel. The prosecution rests.

## Scene Two: The Defense

**NARRATOR:** The defense has assembled an impressive number of character witnesses.

**COLONEL MAUREL:** M. Demange, you may call your first witness.

**DEMANGE:** The defense calls Captain Mercier-Milon.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**MERCIER-MILON:** I do.

**DEMANGE:** How long, and in what capacity, have you known the defendant?

**MERCIER-MILON:** I served with him in the French artillery for several years.

**DEMANGE:** How would you describe Captain Dreyfus?

**MERCIER-MILON:** He was always a faithful and scrupulous soldier.

**DEMANGE:** Do you believe he is capable of spying?

**MERCIER-MILON:** Absolutely not.

**DEMANGE:** No further questions.

**COLONEL MAUREL:** M. Brisset, do you wish to question this witness?

**BRISSET:** Yes, Colonel. Captain Mercier-Milon, is it true that both you and Captain Dreyfus, in your capacity as artillery officers, were privy to information about our new highly classified 120mm cannon?

**MERCIER-MILON:** That is true . . . we knew a little about this artillery piece . . . but not much.

**BRISSET:** And would information about this artillery piece be of great interest to Germany?

**MERCIER-MILON:** I suppose so.

**BRISSET:** No further questions.

**COLONEL MAUREL:** The witness may step down.

**DEMANGE:** The defense would like to call Captain Charles-Edmond Toccanne.



**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**TOCANNE:** I do.

**DEMANGE:** How long, and in what capacity, have you known the defendant?

**TOCANNE:** He was a classmate of mine at the *Ecole de Guerre*—the French war academy.

**DEMANGE:** Do you think him capable of treason—of being a spy?

**TOCANNE:** Certainly not. I would find it hard to believe he was capable of any crime and surely not spying.

**DEMANGE:** No further questions.

**COLONEL MAUREL:** M. Brisset, do you wish to question this witness?

**BRISSET:** Yes, your honor. Captain Tocanne, isn't true that your only real contact with Captain Dreyfus was that you were in the same topography class?

**TOCANNE:** Yes, but . . . *(prevented from speaking further by Brisset)*

**BRISSET:** Just yes or no, Captain Tocanne.

**TOCANNE:** Yes.

**BRISSET:** No further questions.

**COLONEL MAUREL:** The witness may step down. You may call your next witness.

**DEMANGE:** The defense calls Rabbi Zadoc Kahn.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**RABBI KAHN:** I do.

**DEMANGE:** What is your occupation?

**KAHN:** I am the grand rabbi of France, the highest position for my religion in the country.

**DEMANGE:** How long, and in what capacity, have you known the defendant?

**KAHN:** I have known him for many years, both as a friend and as his rabbi.

**DEMANGE:** What can you say about the character of Captain Dreyfus?

**KAHN:** I can say that he is of sterling character. A professional soldier and a true French patriot.

**DEMANGE:** Do you think him capable of spying?

**KAHN:** No, it is simply not in his character.

**DEMANGE:** I have no further questions of this witness.

**COLONEL MAUREL:** M. Brisset, do you wish to question this witness?

**BRISSET:** Yes, Colonel. Rabbi Kahn, isn't it true that Captain Dreyfus and his family are heavy supporters of the Jewish faith—financial supporters?

**KAHN:** The Dreyfus family, including Captain Dreyfus, do support our faith but no more so than any other wealthy Jewish family in France.

**BRISSET:** And wouldn't these large donations put a strain on the resources of a mere captain in the army?

**KAHN:** Respectfully, I'm not sure M. Brisset. You'd have to ask Captain Dreyfus. I believe that some of his contributions to our faith must have come from family money.

**BRISSET:** No further questions.

**COLONEL MAUREL:** The witness may step down. Do you have any further witnesses, M. Demange?

**DEMANGE:** Yes, Colonel. I would like to call Professor Lucien Lévy-Bruhl.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**LÉVY-BRUHL:** I do.

**DEMANGE:** M. Lévy-Bruhl, what is your occupation?

**LÉVY-BRUHL:** I am a university professor and a writer.

**DEMANGE:** Your honors, Professor Lévy-Bruhl is being modest—we all know that he is one of France's most celebrated writers and philosophers. He has also made significant contributions to the field of ethnology, especially in understanding primitive mentality. Professor Lévy-Bruhl, tell the court your view of Captain Dreyfus.

**LÉVY-BRUHL:** I have known Captain Dreyfus for many years, and I agree entirely with what Rabbi Kahn said about his character. I do not believe he would ever betray France.

**COLONEL MAUREL:** M. Brisset, do you wish to question this witness?

**BRISSET:** Yes, your honor. Professor, with all respect to your obvious intellectual contributions, isn't it true that you only know Captain Dreyfus through associations at your temple and social occasions? You don't really know anything about his military duties, correct?

**LÉVY-BRUHL:** That is true.

**BRISSET:** No further questions.

**COLONEL MAUREL:** Do you have any further witnesses, M. Demange?

**DEMANGE:** The defense would like to call Captain Alfred Dreyfus.

**NARRATOR:** Captain Dreyfus steps up to the witness stand and then turns and salutes the judges.

**DREYFUS:** (*Speaking in a colorless and emotionless voice*) I am Alfred Dreyfus—a captain in the French artillery—currently attached to the General Staff, Second Bureau.

**CLERK:** Raise your right hand. Do you swear to tell the truth, the whole truth, and nothing but the truth?

**DREYFUS:** I do.

**CLERK:** State your age.

**DREYFUS:** Thirty-five.

**CLERK:** Your place of birth.

**DREYFUS:** Mulhouse, Alsace.

**CLERK:** Be seated.

**DEMANGE:** Captain Dreyfus, please explain to the court how you became aware that you were under suspicion of being a spy.

**DREYFUS:** On Saturday, October 13, I received a service note inviting me to report the following Monday at nine o'clock in the morning to the Ministry of War for general inspection. It was expressly said that I was to be in civilian attire. The hour seemed early for general inspection, which ordinarily took place in the evening, and the notice to appear in civilian attire also surprised me. On Monday morning, I said goodbye to my family. My son Pierre, who was then three-and-a-half, had taken up the habit of leading me to the door when I left and accompanied me that morning as usual. The morning was lovely and cool. The sun was rising on the horizon . . . everything announced a superb day. Since I had arrived early at the ministry, I strolled outside for a few minutes in front of the building. It was quite cold outside, so I didn't linger long. Then I entered the building and climbed the stairs to the offices. Upon my arrival, I was received by Major Picquart, who appeared to be expecting me and immediately led me into his office. *(Pausing to clear his throat).*

**DEMANGE:** Go on.

**DREYFUS:** I was surprised to find none of my comrades in the room. After a few minutes, Major Picquart led me to the office of the chief of the General Staff. When I entered, I was a bit taken aback because instead of finding myself in the presence of the chief of the General Staff, I was instead greeted by Lieutenant Colonel Paty de Clam, who was standing there in full uniform. He came over to me and said that he had a letter he wanted me to write for him. He claimed that he had hurt his fingers and found it difficult to write.

**DEMANGE:** Did you find this to be an odd request?

**DREYFUS:** I did find it a bit odd, but I never question orders, so I seated myself at a small table and took up a pen. Colonel Paty de Clam stood right next to me, looking over my shoulder. First, he had me fill out an inspection form and then he began dictating a letter. During the dictation, he interrupted me several times asking me why I was trembling . . . with a distinctly hostile tone to his voice.

**DEMANGE:** And were you trembling?

**DREYFUS:** I was not, and his remarks quite surprised me as well as the unfriendly tone of his voice. I did not suspect anything. In fact, I thought he was being critical of my penmanship. I had only been in a heated room for a few minutes. I actually told him that my fingers were cold from being outside. I continued to write without showing any sign of distress. Then he said, "Pay attention. This is serious!"

**DEMANGE:** Did this surprise you?

**DREYFUS:** Yes, however I said nothing and applied myself to writing what he was dictating.

**DEMANGE:** And then what happened?

**DREYFUS:** After a few minutes more of writing, he put his hand on my shoulder and cried out in a resounding voice, "In the name of the law, I arrest you. You are accused of the crime of high treason."

**DEMANGE:** And what was your reaction when you heard that?

**DREYFUS:** It was like I had been hit by a bolt of lightning. I was in a state of shock and confusion. I couldn't believe it. I protested but it was to no avail. Guards entered the room. I was arrested and taken off to jail. At this time, I had no idea why I was being detained.

**DEMANGE:** What did you later find out was the purpose of this handwriting experiment conducted by Colonel Paty de Clam?

**DREYFUS:** I later learned that it was an attempt to compare my handwriting to that of a suspected spy in the German Embassy.

**DEMANGE:** Did you make any attempt to disguise your handwriting?

**DREYFUS:** Absolutely not.

**DEMANGE:** Captain Dreyfus, did you at any time ever engage in any traitorous activities related to the German Embassy or any other individuals or locations?

**DREYFUS:** Never. I am a loyal French officer and would never betray my country. I have had to listen in this courtroom to the erroneous and hate-filled deposition of Colonel Paty de Clam, and the lying testimony of Major Henry. I have had to endure the contradictory and false reports of so-called handwriting experts, while noting the numerous differences between the handwriting in the *bordereau* and mine. All of these statements seemed to be coming from minds of madmen who even had the audacity to brandish magnifying glasses in front of the judges, as if these instruments would suddenly reveal the similarities between my handwriting and that in the *bordereau*.

**DEMANGE:** Captain Dreyfus, when you left the War College you were ranked number nine in the officer seniority list. You expressed to colleagues some discontent. What was the reason for this discontent?

**DREYFUS:** I was told by a friend that one of my examiners at the War College said that they did not want officers of my religion on the General Staff.

**DEMANGE:** How did this affect you?

**DREYFUS:** I was saddened by this religious prejudice, but I did not let it bother me. Although after my final exams—in which I received poor scores—I did mention it to the director of the War College.

**DEMANGE:** And what did he say?

**DREYFUS:** The director received me very benevolently. He said he already knew about these prejudicial statements and regretted them. Although I did not receive very good grades in my exams, I was happy with my rank so I did not pursue the matter further.

**DEMANGE:** So, you attribute your poor grades to religious prejudice?

**DREYFUS:** I cannot say for sure.

**DEMANGE:** Colonel Maurel, I have no further questions from this honorable French officer.

**COLONEL MAUREL:** M. Brisset, do you wish to question the defendant?

**BRISSET:** Yes, Colonel. Captain Dreyfus, isn't it true that as a member of the French General Staff, the Second Bureau, you had access to information that could potentially be valuable to Germany?

**DREYFUS:** Yes.

**BRISSET:** (*Holding the bordereau*) Let us examine some of the aspects of this *bordereau*. First, isn't it true that the handwriting in this document very much resembles your handwriting, Captain Dreyfus?

**DREYFUS:** No.

**BRISSET:** In this *bordereau* there are particulars discussed about our highly secret 120mm cannon—in particular, how the hydraulic brakes functioned. Captain Dreyfus, wouldn't this information be of high interest to a foreign power like Germany?

**DREYFUS:** Yes, I suppose so.

**BRISSET:** And wouldn't the function of this cannon be of interest to an artillery officer like yourself?

**DREYFUS:** Yes, but . . .

**BRISSET:** (*Cutting him off*) So a graduate of the War College—an artillery officer—clearly would have an interest in this cannon.

**DREYFUS:** Yes.

**BRISSET:** In the spring of 1894, this 120mm cannon was the object of battery experiments, the results of which were reported to the General Staff. Captain Dreyfus, were you attached to the General Staff at this time?

**DREYFUS:** Yes.

**BRISSET:** So, isn't it true, Captain Dreyfus, that you were aware of the results of these tests and even discussed the technical results with other artillery officers?

**DREYFUS:** No. I never saw this report, nor did I have any discussions with other officers regarding this cannon except in very general terms. I only saw one of these cannons in the artillery school in Calais during a trip there with the officer of the War College, but we never actually saw a firing demonstration.

**BRISSET:** Yet in the *bordereau*, it says that the firing manual for this cannon was difficult to obtain except for artillery officers . . . and you Captain Dreyfus are an artillery officer, isn't that true?

**DREYFUS:** I am an artillery officer, but I never saw a copy of this firing manual because I had no need for it—my work at the General Staff was different.

**BRISSET:** The *bordereau* ends with these words: "I'm leaving on maneuvers." Isn't it true, Captain Dreyfus, that at about the time specified in this document you went on maneuvers?

**DREYFUS:** Yes, I believe so, but it was a coincidence.

**BRISSET:** And isn't it true that you are from Alsace, a region that has close ties to Germany?

**DREYFUS:** Yes, I grew up in Alsace—unjustly taken from France after the last war but . . . (*cut off from speaking by Brisset*)

**BRISSET:** And isn't it true, Captain Dreyfus, that you are the only Jewish officer on the General Staff?

**DEMANGE:** (*Rising from his chair*) Objection, Colonel. What possible relevance can Captain Dreyfus's religious persuasion have to do with these proceedings?

**COLONEL MAUREL:** Objection sustained.

**BRISSET:** No further questions.

**COLONEL MAUREL:** Captain Dreyfus, you may step down. M. Demange, do you have any further witnesses?

**DEMANGE:** No, Colonel. The defense rests.

### Scene Three: Closing Remarks, December 21, 1894

**NARRATOR:** The court reconvenes to hear final statements from both the prosecution and the defense.

**COLONEL MAUREL:** M. Brisset, do you have any final remarks?

**BRISSET:** Yes, Colonel. The prosecution has clearly demonstrated that a French officer was revealing secret information to officials in the German Embassy. The spy was so bold that he even wrote out messages in his own handwriting. Thankfully, our diligent anti-espionage officers were able to ferret out this spy, and with the help of our handwriting experts we were able to conclusively identify the dastardly traitor . . . and that traitor is in this courtroom. He is Captain Alfred Dreyfus.

**COLONEL MAUREL:** M. Demange, do you have any further remarks?

**DEMANGE:** Yes, Colonel. Captain Dreyfus is no traitor. His whole career has been an affirmation of his dedication and loyalty to the army and the French nation. The prosecution has failed to provide any motivation for him to spy. Their so-called handwriting experts have only demonstrated superficial similarities between his handwriting and that of the alleged traitor. The very contents of the *bordereau* have shown that it could not be the work of Captain Dreyfus. The court should swiftly move to find Captain Dreyfus not guilty and immediately restore him to his former position.

**COLONEL MAUREL:** Captain Dreyfus, do you have any final words before the court retires to consider a verdict?

**DREYFUS:** Yes, your honors. I am a true son of France—born in Alsace, our beloved province taken by Germany in the last war. I could never commit the hideous crimes of which I am accused. *Vive la France!*

**COLONEL MAUREL:** The court will now retreat to deliberate our findings.

**NARRATOR:** After the closing remarks, Major Georges Picquart informed the General Staff that the case against Captain Dreyfus was proceeding rather poorly and he was likely going to be acquitted. Shortly after the judges retired to deliberate their verdict, an extraordinary event occurred. Lieutenant Colonel Paty de Clam came into the courtroom with a small packet labeled "For the Officers of the Court-Martial." The court clerk immediately delivered the packet to the deliberating judges without allowing anyone—including the defense—to view the contents. In the packet was an incriminating file provided by Major Henry that contained a letter dated May 1894 from the Italian military attaché mentioning, "this scoundrel of D." Henry suggested that this clearly identified Dreyfus as the traitor. However, in the name of national security, Henry suggested that Dreyfus and his attorney should not be informed about this secret document.



They were, in effect, being ordered by the Minister of War to find Captain Dreyfus guilty, despite any misgivings they might have about the evidence.

#### Scene Four: Saturday, December 22, 1894, Verdict, Sentencing, and Aftermath

**NARRATOR:** The court convenes for the verdict.

**CLERK:** Captain Dreyfus, stand before the court to hear the sentence.

**COLONEL MAUREL:** The court finds you guilty of high treason. The court condemns you to the maximum sentence of the law. You are to be publicly degraded in front of an assembly of soldiers—stripped of your rank, your sword broken—and then to be taken to an isolated and fortified place to be confined for the rest of your natural life.

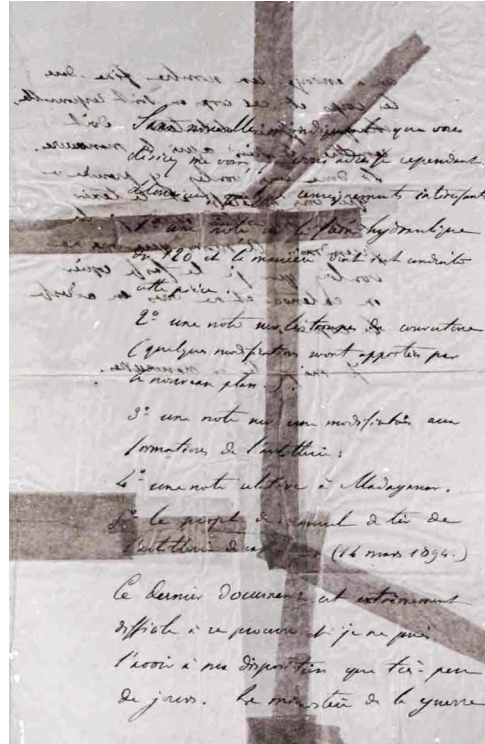
**NARRATOR:** There are great gasps in the courtroom. Some cry out, “*Vive la France.*”

**DREYFUS:** (*Looking stunned*) I protest . . . I am no traitor. You are condemning an innocent man.

**NARRATOR:** Taken back to his prison cell, Captain Dreyfus begged to be given a pistol to end his life. This request was denied. Instead, he was degraded and then transported to Devil’s Island in French Guiana. At his degradation, after they had stripped off his rank and broke his sword, he cried out to the troops, “Soldiers, they are degrading an innocent man! Soldiers, they are dishonoring an innocent man! Long live France! Long live the army!” On Devil’s Island, Dreyfus was incarcerated in a twelve-by-twelve-foot stone cell with two barred windows and a door that was guarded around the clock. The guards were forbidden to speak to him. He was shackled to his bed at night, unable to defend himself against the mosquitoes, biting ants, and spider crabs that swarmed in his cell.

## Documentary Evidence

A photograph of the *bordereau*, dated October 13, 1894. The original disappeared in 1940.



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*Image source:* Courtesy of the French National Archives.

# Time Line

## 1894

<b>September 26</b>	The French Intelligence Services intercept a message to Lieutenant Colonel Maximilian von Schwartzkoppen, a military attaché in the German Embassy. From the contents of this document, later referred to as the <i>bordereau</i> , French intelligence concludes that there must be a spy who is a member of the General Staff. They also believe that spy to be an artillery officer.
<b>October 6</b>	French intelligence concludes that Captain Alfred Dreyfus, an artillery officer attached to the General Staff, is the most likely suspect. He is from Alsace, a French province under German rule since the Franco-Prussian War. Also, he is Jewish, a fact emphasized by the avowed anti-Semitic investigating officers who communicate their suspicions to General Mercier, the minister of war.
<b>October 15</b>	Lieutenant Colonel Armand du Paty de Clam meets with Dreyfus and, without explanation, instructs him to write out a letter to compare his handwriting with that in the <i>bordereau</i> . The two documents are not an exact match but there are similarities. Captain Dreyfus is accused of spying and then arrested, despite his protestations of innocence. He is immediately taken to Cherche-Midi military prison to await summary court-martial for treason.
<b>December 19–22</b>	The trial of Captain Dreyfus takes place in closed session. Initially, the trial seems to go well for Captain Dreyfus, especially since he clearly had no known motive and the alleged handwriting similarities seemed superficial. However, at the end of the trial, prior to the court retiring to deliberate, Major Henry, obeying orders from General Mercier, gives the court officers an incriminating file that contained a letter dated May 1894 from an Italian military attaché mentioning, "this scoundrel of D." Because of security issues, Captain Dreyfus's defense lawyer, Edgar Demange, is never given access to this document. This evidence proves pivotal in convincing the court to convict Captain Dreyfus of high treason. He is sentenced to life in prison and military degradation.

# Glossary

**Alsace-Lorraine:** Two French provinces incorporated into the unified German Empire after the Franco-Prussian War.

**Anti-Semitism:** Prejudice against, hatred of, or discrimination against Jews as an ethnic, religious, or racial group.

**Bordereau:** The manuscript used to initially indict and convict Alfred Dreyfus. It listed information to be delivered to the Germans about the hydraulic brake of the 120mm cannon and various other details relating to French army artillery.

**Degradation:** A military ceremony in which a sentence is read to the prisoner in front of assembled troops, the commanding officer declares him unworthy to bear arms, drums are beaten, an officer strips the prisoner of his badges and rank, his sword is broken, and he is obliged to pass a line of soldiers with their weapons facing downward.

**Franco-Prussian War:** A war between France and Prussia in 1871. France was soundly defeated, had to pay a huge indemnity to Prussia, and lost the provinces of Alsace and Lorraine. Also, Germany became a unified nation.

**General Staff:** The leading officers of a country typically in charge of the planning and prosecution of any current or future war.

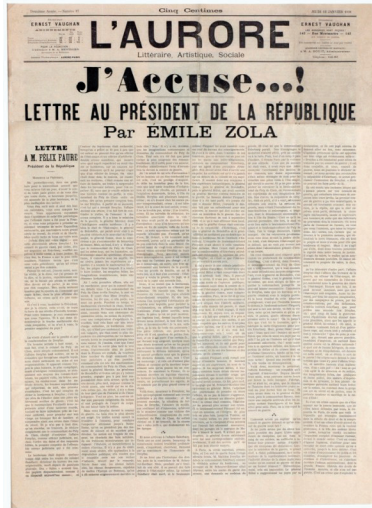
**Petit-bleu:** A letter taken from the German Embassy addressed to Major Esterhazy that allegedly revealed the existence of a French officer selling military secrets to the Germans.

**Pince-nez:** A pair of eyeglasses with a nose clip instead of earpieces.

**Third Republic:** The government of France from 1870, when the Second French Empire collapsed, to 1940, when the German occupation of France in World War II led to the Vichy government.

**Treason:** The crime of trying to overthrow your country's government or of helping your country's enemies during war.

# Postscript



Emile Zola's defense of Dreyfus

While Alfred Dreyfus was slowly rotting in the living hell of Devil's Island, others were moving to clear his name, especially his faithful brother, Mathieu, who, in addition to working tirelessly to clear his brother's name, also cared for his wife and children.<sup>1</sup> Alfred Dreyfus's supporters became known as Dreyfusards. Opposing this group were the Anti-Dreyfusards, who were convinced that he was a Jewish traitor. Each time the Dreyfusards introduced new evidence to clear Dreyfus, it was either suppressed by the army or matched with new fabrications or allegations. They believed they had convicted the right man and were determined to keep him imprisoned on Devil's Island.<sup>2</sup> Probably the one person who knew the least about what was happening was Alfred Dreyfus. From his departure to Devil's Island on February 22, 1895, till his return on June 30, 1899, he was completely cut off from news. His brother and his lawyer had to brief him about all the evidence used to convict him and the growing number of supporters, like the famous writer Emile Zola, who had rallied to his cause.<sup>3</sup>

Among the witnesses to Captain Dreyfus's degradation was Major Georges Picquart, who had recently been promoted to head the French counterespionage agency. An avowed anti-Semite, at first Major Picquart firmly believed in Dreyfus's guilt. He was also an honest military investigator. Piecing together documents from the files delivered to the court by Major Henry, he stumbled on information that led him to suspect that there was still a spy at large in the French military. He concluded that the *bordereau* had actually been written by another officer, Major Ferdinand Walsin Esterhazy. Major Esterhazy was a notorious drunkard, was burdened with enormous gambling debts, had several mistresses, and had a not-too-well-hidden hatred of the French army. Major Esterhazy had done everything short of wearing a sign reading "I am a

<sup>1</sup> Hoffman, 8.

<sup>2</sup> Tuchman, 204.

<sup>3</sup> Derfler, 76.

traitor." No one in French intelligence, least of all Major Henry, seemed to see that he was a far likelier candidate for spying than a French family man.

Major Esterhazy was eventually placed on trial but, to the astonishment of the Dreyfusards, he was acquitted by the same officers who had condemned Captain Dreyfus. To the Dreyfusards, the verdict "came upon us like the blow of a bludgeon."<sup>4</sup> The French General Staff, clearly complacent in framing Captain Dreyfus, had no intention of revealing their conspiracy.

In March of 1896, French intelligence got a letter, written on blue paper and taken from the same office where the *bordereau* had been found in the German Embassy. It had never been posted and was addressed to Major Esterhazy. The author was unknown, but the German military attaché, Maximilian von Schwartzkoppen, later confirmed that it had come from his office.<sup>5</sup> The letter told of the existence of an unnamed French army officer who was selling military secrets to the Germans. It became known as the *petit-bleu*. The head of French intelligence, Major George Picquart, noted that the handwriting on the letter matched that of the *bordereau*. Major Henry then forged telegrams in an effort to show that Picquart had actually fabricated the *petit-bleu* as part of a conspiracy to exonerate Dreyfus and inculpate Esterhazy.<sup>6</sup> His honor impinged, Picquart challenged Henry to a duel. They crossed swords in March of 1898. Henry was slightly wounded and Picquart did not press the fight further, concluding that his honor had been saved.<sup>7</sup> However, later that year Major Henry finally admitted that he had forged documents to prove Dreyfus's guilt and then committed suicide. Major Esterhazy fled to England to escape further prosecution. However, while in Britain he confessed to having written the *bordereau*, claiming that he did it while posing as a double agent for the French, allegedly to deceive the Germans.<sup>8</sup>

In 1899, five years after his trial and incarceration on Devil's Island, thanks to the persistence of numerous politicians, military figures, and intellectuals, Dreyfus was finally granted a new trial. In fact, at the beginning of the year, France's most famous living writer, Emile Zola, had come to Dreyfus's defense. On January 13, Zola's exposé of the wrongs inflicted on Dreyfus appeared on the front page of the paper *L'Aurore* with the title *J'Accuse*. Supporters of Dreyfus fought to get their hands on one of the three hundred thousand copies, while anti-Dreyfusards burned copies in the streets.<sup>9</sup> Astonishingly, this trial, too, ended with a guilty verdict, and Dreyfus was sentenced to ten years imprisonment. The effect of this verdict hit the French and the world in general like a natural disaster. Even Queen Victoria was aghast, saying that she hoped the "poor martyr will appeal it to the highest judges."<sup>10</sup>

Finally, in 1903, the president of France, Emile Loubet, pardoned Dreyfus, but he remained adamant in his declarations of innocence and demanded another trial, saying that "liberty to me is nothing without honor . . . from this day forward I shall continue to seek amends for the shocking judicial wrong of which I am a victim." In 1906, a French civilian court recognized Dreyfus's innocence and the false accusations that had resulted in his prior convictions.<sup>11</sup> He was reinstated into the French army. They noted that Major Esterhazy was undoubtedly the guilty man, but he was never again tried, nor were any of the other members of the General Staff who had conspired to convict Captain Alfred Dreyfus.

4 Tuchman, 226.

5 Johnson, 40.

6 Derfler, 153.

7 Derfler, 65.

8 Hoffman, 11.

9 Hoffman, 17.

10 Tuchman, 260.

11 Hoffman, 2.



Captain Dreyfus's long confinement on Devil's Island seriously affected his health. He retired from the army in 1907 but reentered the service as an artillery officer at the beginning of World War I. During the war, he participated in the great battle of Verdun and eventually rose to the rank of lieutenant colonel. Dreyfus died in 1935 and was buried in Montparnasse Cemetery in Paris. The inscription on his tombstone is written in French and Hebrew and reads: "Here lies Lieutenant Alfred Dreyfus, officer of the Legion of Honor, 9 October 1859 to 12 July 1935."<sup>12</sup>

On June 11, 1988, a statue of Alfred Dreyfus, in a ceremony arranged by the Socialist Government as a gesture to the extreme right, was unveiled in the Tuileries Gardens by the Culture Minister Jack Lang. However, in 1994, when the political situation changed, it was moved to an obscure location in a park near the Notre Dame des Champs metro station.

<sup>12</sup> "Lieutenant Colonel Alfred Dreyfus," Dreyfus Rehabilitated, accessed January 14, 2019, <http://www.dreyfus.culture.fr/en/the-aftermath-of-the-affair/from-eyewitnesses-to-historians/lieutenant-colonel-alfred-dreyfus.htm>.

## Discussion Questions

1. Anti-Semitism still exists today in French society, and many trace its roots as far back as the Middle Ages. Some historians argue that anti-Semitism did not explain why Dreyfus was originally suspected, but it did explain why the idea of his guilt was more easily accepted by the public. The day after the government had mentioned that a Jewish officer was suspected of treason, outbursts of virulent anti-Semitism spread throughout France. Many anti-Semitic newspapers portrayed Dreyfus as a traitor. Do you think the fact that Captain Dreyfus was a Jew played a major or minor role in his trial and conviction? Was he the classic scapegoat for the Catholic-dominated French General Staff? Explain.
2. Do you think that if the documents that were given to the court by Major Henry at the conclusion of the trial prior to their deliberations had been made available to the defense there would have been a different verdict? Explain.
3. Critics of Captain Alfred Dreyfus have often said that he appeared emotionless during the trial. However, a review of the trial transcript suggests otherwise. He spoke at length and always confidently. On numerous occasions throughout the trial, he broke out in protest against the injustice and inaccuracy of the testimony. Do you think his testimony helped or hurt his chances of an acquittal? Explain.
4. Many of the prisoners held in the U.S. Guantanamo Bay military base accused of terrorism spent years in detention in conditions not too different than that experienced by Captain Dreyfus. William J. Haynes, the general counsel to the U.S. Department of Defense, reputedly said to Chief Prosecutor Colonel Morris Davis, "We can't have acquittals. If we've been holding these guys for so long, how can we explain letting them get off? . . . We've got to have convictions." How would you compare this position with the Dreyfus case? Can you think of any other unjust political incarcerations taking place in the world today? Discuss.
5. Emile Zola, one of the most famous authors in France, came to the support of Dreyfus in 1898, openly accusing the government of anti-Semitism and unjustly convicting Alfred Dreyfus. Zola's letter, *J'Accuse*, was printed on the front page of the popular French newspaper *L'Aurore* (see Postscript). Zola was prosecuted by the government for libel. In 1899, he fled France, settling in England to avoid imprisonment. Many argue that his action was the most important event leading to Dreyfus's eventual acquittal. Do you agree or disagree? Can you think of other instances where a famous person has placed their reputation and perhaps their freedom in jeopardy to undo a perceived injustice?
6. We now know that a pivotal piece of evidence used to convict Captain Dreyfus, the letter written by German military attaché Major Schwartzkoppen to Italian military attaché Major Alessandro Panizzardi referencing "this scoundrel of a D.," was actually a complaint about a mutual lover. Schwartzkoppen and Panizzardi were involved in a homosexual relationship. If this information had been revealed during the trial, do you think Dreyfus would have been convicted? Discuss.
7. On the evening that the newspapers revealed to the French population that Captain Dreyfus had been found guilty of spying, most French citizens expressed regret that he was not to

be executed for the crime of treason. As events turned out, it was fortunate that French law prohibited the military court from condemning Dreyfus to death. Can you think of any other celebrated treason cases, for example Julius and Ethel Rosenberg in the United States, where the death sentence might have been unjustly inflicted on an innocent or less than guilty person? Discuss.

8. Immediately following Dreyfus's degradation, a rumor spread that he had confessed to selling documents to the Germans. In fact, several French newspapers even ran stories confirming the rumor with the headline, "Dreyfus Has Confessed." This was entirely fabricated. Can you think of any other instances in history in which rumor has become, in the eyes of the public, factual? What role does the media play in this kind of scenario? Discuss this, especially in light of discussion in America around the concept of fake news.
9. In his later years, after his acquittal, Dreyfus enjoyed playing bridge. There is a story that one evening a bridge partner mentioned that another French officer had been arrested for espionage. Realizing his comment was a bit tactless, he added that "there is probably nothing to it." Dreyfus allegedly replied, "Oh, I don't know. After all, there is never smoke without fire." Given all that we now know about the Dreyfus Affair, is it possible that Captain Dreyfus actually was a spy? Discuss.
10. Soon after Captain Dreyfus was condemned to degradation and deportation for life in 1894, the concrete evidence brought against him was revealed as false, but the French General Staff repeatedly refused to reverse its verdict. Despite the fact that Dreyfus was later pardoned and eventually exonerated by a French court, a French army study of the case in the 1980s only concluded that Dreyfus's "innocence is a thesis generally accepted by historians." Can you think of any other examples where governments or national institutions have failed to take full ownership of acknowledged facts? For example, the Turkish government's unwillingness to recognize the Armenian genocide or the Japanese government's unwillingness to take full ownership of the atrocities committed by their soldiers in China during World War II.

## Extension Activities

1. Write an essay discussing whether the Dreyfus Affair exposed existing divisions within French society or created new ones.
2. Research Dreyfus's second trial and either write an essay or make a class presentation as to why he was convicted a second time.
3. Newspapers played a critical role in the Dreyfus Affair. The anti-Semitic paper *La Libre Parole* broke the story that a Jewish officer had been spying for the Germans, and *L'Aurore* ran the editorial by Emile Zola—*J'Accuse*—that attacked the conviction of Dreyfus as based on false evidence and prejudice. Dreyfus's brother, Mathieu, used French newspapers to keep the story alive while his brother was rotting in his jungle prison on Devil's Island. Research the French newspaper's reporting of the Dreyfus Affair, and either write an essay or make a class presentation about how the various news journals (*Le Temps*, *Le Figaro*, *L'Intransigeant*, *Le Petit Journal*, etc.) either correctly or incorrectly reported the case.
4. Research another trial with obvious racial or religious implications, and either write an essay or create a media presentation comparing it to the Dreyfus Affair. For example, the trial of Julius and Ethel Rosenberg or that of Sacco and Vanzetti.
5. During World War I there was another celebrated spying case with parallels to the Dreyfus case. Mata Hari was accused, tried, and shot for spying on behalf of the Germans. However, personal letters and recently released documents relating to her trial have called her alleged guilt into question. She clearly never passed on any information of value to the Germans. Was she merely a scapegoat (like Dreyfus), targeted because of her unabashed promiscuity, exotic appearance, and defiance of French societal norms? Research this trial and either write an essay or create a class presentation that compares how justice was applied to Mata Hari in contrast to how it was applied to Dreyfus.

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A faint, light gray background illustration. In the upper right, there is a five-pointed star. In the lower left, there is a stylized hand with fingers spread, reaching upwards towards the star.

## **Chapter 5**

# **The Trial of Roger Casement, 1916**

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## ● Introduction ●

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Sir Roger Casement is one of the most mysterious figures in the long history of troubles between Britain and Ireland. Admirers have called him a flawed hero and a martyr to Irish freedom. Enemies saw him as a traitor and a moral degenerate. Clearly, he was one of the most influential leaders in Ireland's struggle for political independence from Great Britain.

### **Objectives**

1. Students will become familiar with the Irish struggle for political rights from Britain in the early part of the twentieth century.
2. Students will understand the role that Sir Roger Casement played in the Easter Rising and the Irish quest for independence.

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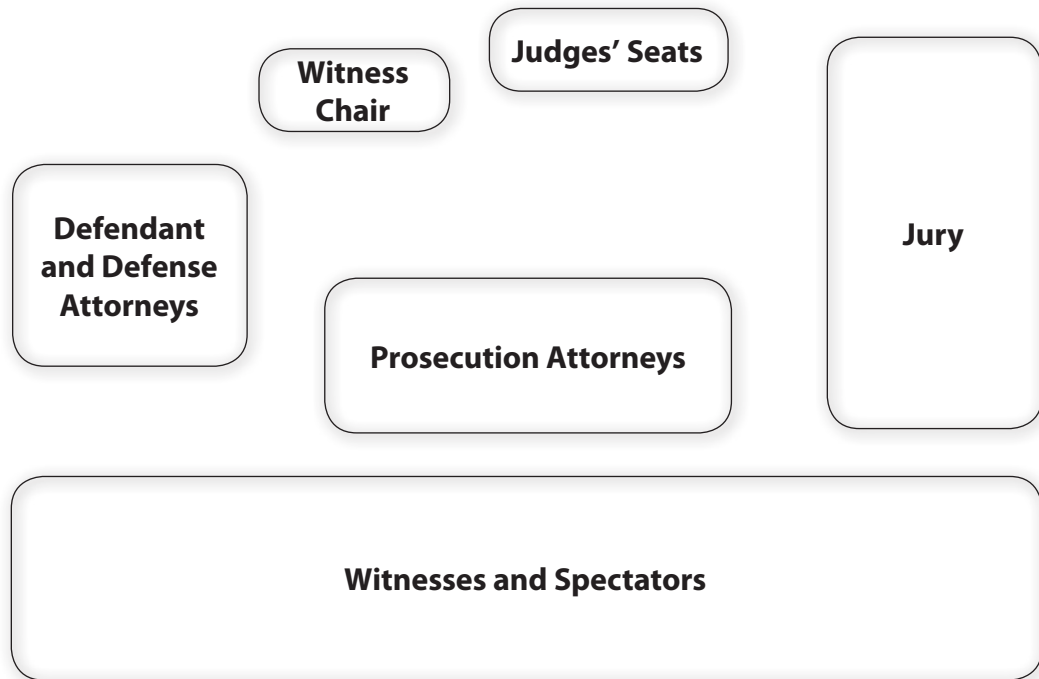
## Lesson Plan

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### 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. The three judges (Chief Justice Avory, Sir Charles Darling, and Lord Reading) enter, and the king's coroner (clerk/bailiff) instructs everyone in the courtroom to rise.
4. Chief Justice Avory then "charges the jury" with its responsibilities.
5. Chief Justice Avory then instructs the king's coroner to read the charges against the defendant, Sir Roger Casement, and asks for a plea.
6. Sir Roger Casement declares himself 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 the prosecution witnesses. Note that in this trial, the defendant does not testify and the defense does not present any witnesses.
  - d. Summary remarks by the defense attorney(s)
  - e. Summary remarks by the prosecution attorney(s). Note that according to English law, since the defense presented no witnesses, the prosecution has the last word.
  - f. Jury retires to deliberate
  - g. Jury returns to the court and Chief Justice Avory asks members for their verdict
  - h. If Sir Roger Casement is declared guilty, then Chief Justice Avory asks the defendant if he would like to make a last statement. He will say yes. After his statement, Chief Justice Avory will sentence him to death by hanging.

### Diagram of Courtroom Seating



### 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 Extension Activities.

### Notes for the Teacher (role play)

1. Read and discuss the Background Essay with students.
2. Divide the class into prosecution and defense.
3. 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 Chief Justice Avory.
4. 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 and practice their direct testimonies and prepare answers for any suspected cross-examination questions.

#### Teaching Tip

You may decide to allow students to refer to their depositions while testifying rather than relying totally on memory.



5. Since the defense in this trial does not have any witnesses (unless you are going to have Casement testify) it is important that you give the defense attorneys the role descriptions (or depositions) of the prosecution witnesses so they can frame any cross-examination questions they deem appropriate.
6. In the British system of justice, the attorney-general (prosecution) representing the Crown in an ordinary criminal trial has the privilege of addressing the jury last if the counsel for the prisoner does not call any witnesses. Thus, in the scripted version of the trial, the lead defense counsel, Serjeant Sullivan, did not call witnesses and the prisoner did not testify, so the attorney-general got the last word. However, if you are doing the role-play version and you decide to have Casement testify on his own behalf, then you may allow the defense to have the last word.
7. 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. You will also have to ask the prosecution to reduce the number of witnesses they are presenting to conform to the time constraints. You can also restrict cross-examination to one or two questions. Assuming a sixty-minute class period, the schedule would look like this:
  - 5 minutes for Chief Justice Avory and the king's coroner to read the charges and receive Casement'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 defense closing remarks
  - 2 minutes for prosecution closing remarks
8. Advise the attorneys for the defense 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 students is to never ask a question that they don't already know the answer to.
9. On the day of the trial, arrange the classroom to look like a courtroom (see Diagram) with the judges' seats, a witness chair, a seat for the defendant, desks for the attorneys, and witness seats.

**Teaching Tip**

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.

10. Try to match roles to student personalities and academic strengths. For attorneys, it is particularly important that you select students who are well-organized and not afraid to speak in front of the class.
11. The case can be decided by the judge(s), however it is certainly possible to include a jury. Forming the jury from members of another class or even interested adults works well as long as they know little or nothing about the case (the hallmark of any good jury!).
12. While the jury is deliberating the verdict, you can engage the rest of the class with the Discussion Questions.

### Suggested Schedule (scripted version)

**Day One:** Read and discuss the Background Essay, assign speaking parts, and begin reading of the trial.

**Day Two:** Conclude reading of trial, debriefing using Discussion Questions, and assign Extension Activities.

### Notes for the Teacher (scripted version)

1. Read and discuss the Background Essay.
2. Assign students speaking roles in the play. Note that the roles of the narrator, Judge Ivory, and the prosecution and defense attorney have the lengthiest speaking parts.
3. Prior to students coming to class, you may decide to set up the classroom to look like a courtroom. It adds more realism to the drama.
4. Read the play.
5. Debrief using the Discussion Questions.
6. Assign Extension Activities.



## Roles Grid

Role	Historical Character	Student Name
<b>Judges</b>	Chief Justice Horace Edmund Avory	
	Sir Charles Darling	
	Viscount Reading	
<b>Clerk, Judge's Assistant, and Bailiff</b>	King's Coroner	
<b>Prosecution Attorneys</b>	Attorney-General Sir Fredrick Smith	
	H. Bodkin	
	Travers Humphreys	
<b>Defense Attorneys</b>	A. M. Sullivan	
	T. Artemus Jones	
	J. H. Morgan	
<b>Defendant</b>	Sir Roger Casement	
<b>Witnesses</b>	John Cronin	
	Daniel O'Brien	
	John Robinson	
	William Egan	
	Michael O'Connor	
	Michael Moore	
	John Neill	
	John M'Carthy	
	Mary Gorman	
	Thomas John Hearn	
	Joseph Sandercock	
	Sydney Ray Waghorn	
	John Dempsey	

*continued*

## The Trial of Roger Casement, 1916

### Lesson Plan

Juror Name	Occupation	Student Name
Frederick Thomas Wheeler	Shipping Clerk	
Ernest William West	Schoolmaster	
John Charles Watts	Warehouseman	
Albert John Abbot	Clerk	
Herbert James Scoble	Clerk	
Richard Charles Scantlebury	Agent	
Albert George Scopes	Leather Merchant	
John Burdon	Mechanical Engineer	
William Bowers Card	Baker	
William Cole	Coachman	
Hyman Saunders	Tailor	
Albert Sydney Ansley	Bank Clerk	

# Background Essay

Toward the end of the nineteenth century, many in Ireland had been striving for some form of self-government within the United Kingdom. In 1912, the British government finally caved in to their demands, and Parliament passed a bill granting home rule to Ireland. However, not all the Irish accepted this transfer of power. They wanted total independence. Ireland remained divided with various party-political and quasi-military groups vying for control, including Sinn Féin, the Ulster Volunteers, and the Irish Volunteers. Additionally, Ireland was divided religiously between the predominately Catholic South and the largely Protestant North. Militant groups like the Ulster Volunteers (armed wing of the Ulster Unionists) and the Irish Volunteers (armed wing of the Irish Parliamentary Party) threatened to upset this delicate balance of power with England. The outbreak of the Great War in August 1914 temporarily put the independence movement on hold, and the Irish were urged to form regiments of soldiers to support Great Britain in the war against Germany. Many Irish men, predominately from poorer households, answered the call to arms.

Two years after the start of the Great War, in April 1916, the Irish Volunteers launched a revolt against British rule called the Easter Rising.<sup>1</sup> The British crushed the ill-equipped and disorganized insurrection in just over a week with more than four hundred deaths and thousands of injuries. The violent repression did not even spare the young; forty children died during the Easter Rising. The British arrested, imprisoned, tried, and executed dozens of Irish nationalists associated with the rebellion. One of the leaders associated with this violent uprising and its reprisal was a famous Irish member of the British diplomatic service, Sir Roger Casement.

<sup>1</sup> Seán Enright, *After the Rising: Soldiers, Lawyers and Trials of the Irish Revolution* (County Kildare, Ireland: Merrion, 2016).



Irish Brigade in Zossen, Germany

Sir Roger Casement was born in 1864 in Dublin to an Anglo-Irish family. He was raised as a Protestant, and after his education at the Diocesan School, he left Ireland at the age of sixteen and went to work in England as a shipping clerk. Bored with commercial business, he entered the British Consular Service, where he achieved fame by exposing to the world the poor treatment of laborers in the Belgian Congo. Later, he helped ease the brutalities inflicted upon tribesmen of the Amazon in South America. The British government recognized his excellent service to the Crown by awarding him a knighthood.<sup>2</sup> Casement never forgot his Irish heritage, and in 1913 he resigned from the British Consular Service to dedicate himself to the cause of Irish freedom.

When the Great War erupted in August 1914, Sir Roger Casement saw an opportunity to strike a blow for Irish independence. He and Joseph Plunkett (another Irish nationalist) made their way to Germany via New York and Norway, eventually reaching Berlin on October 31, 1914. They hoped to win German support for an Irish insurrection. The plan they proposed called for the Germans to land twelve thousand soldiers and forty thousand modern rifles in Limerick, where

<sup>2</sup> Tim Pat Coogan, *1916: The Easter Rising* (London: Cassell, 2001), 75.

Irish rebels would launch a nationwide revolt, effectively placing Ireland squarely on the side of Germany.<sup>3</sup> The Germans refused to support this plan. They did agree to the formation of an Irish Brigade, whose members would be recruited from prisoners of war currently being held in their prisoner-of-war camps—especially the one in Limburg, where there were thousands of prisoners captured in the early months of the war. It was to be equipped and trained by the Germans but was only to be used to serve the cause of Irish independence. If the Germans achieved a naval victory over Britain, then the Irish Brigade would be shipped to Ireland with an ample supply of weapons and ammunition; enough to drive the British out of Ireland for good.<sup>4</sup>

Sir Roger Casement agreed to speak to the prisoners of war in Germany and to facilitate the formation of this Irish Brigade. He spent several months in Limburg Prison Camp speaking to Irish prisoners of war telling them about the need for Irish independence and urging them to join the Irish Brigade, an all-Irish fighting force that would be trained and outfitted by the Germans. He promised them that they would only see action in Ireland, and that if the Germans lost the war, they would be given free passage to America to begin a new life. To his dismay, the Irish Brigade was never fully formed, trained, or armed. Only a small handful of prisoners signed up, and Casement soon realized that it was a fool's errand. It was a mission that was going to cost him dearly when the details of his actions were revealed at his treason trial.

Meanwhile, in late 1915, Joseph Plunkett and Casement were promised by the Germans a shipload of weapons to be sent to Ireland sometime in April 1916. It was agreed that an Irish rising would be timed to coincide with a big German offensive on the Western Front. They were also led to believe by the Germans that it was a real possibility that the arms shipment

would include not only thousands of modern rifles, but also artillery, machine guns, and even German soldiers.

True to their word, in April 20, 1916, a small ship, the *Aud*, flying the flag of neutral Norway but commanded by Lieutenant Karl Spindler, a German naval officer, appeared off the coast of Ireland near Tralee Bay. However, British naval authorities had been alerted about a potential weapons shipment to Ireland, and three British naval ships stopped the ship and ordered it into port for an inspection of the cargo. Instead, the *Aud's* captain scuttled the ship, sending it to the bottom with twenty thousand Russian-made rifles, ten machine guns, and more than a million rounds of ammunition.<sup>5</sup> This action sank more than a ship—it also sank any hope of a successful Irish revolt. The next morning, April 21, three days before the Easter Rising began, Sir Roger Casement was dropped off near the coast of Ireland by a German submarine, ironically captained by Lieutenant Weisbach, the man who sank the *Lusitania*. Casement and two other men, Robert Monteith and Daniel Bailey, one of the few prisoners of war he had successfully recruited into the Irish Brigade, waded ashore, soaking wet after the small collapsible boat tipped over in the surf. Leaving their boat floating on the shore, they took off from the beach heading inland.



A model of the SS *Aud*

3 Fearghal McGarry, *The Rising: Ireland, Easter 1916* (New York: Oxford University Press, 2010), 105.

4 Coogan, 76.

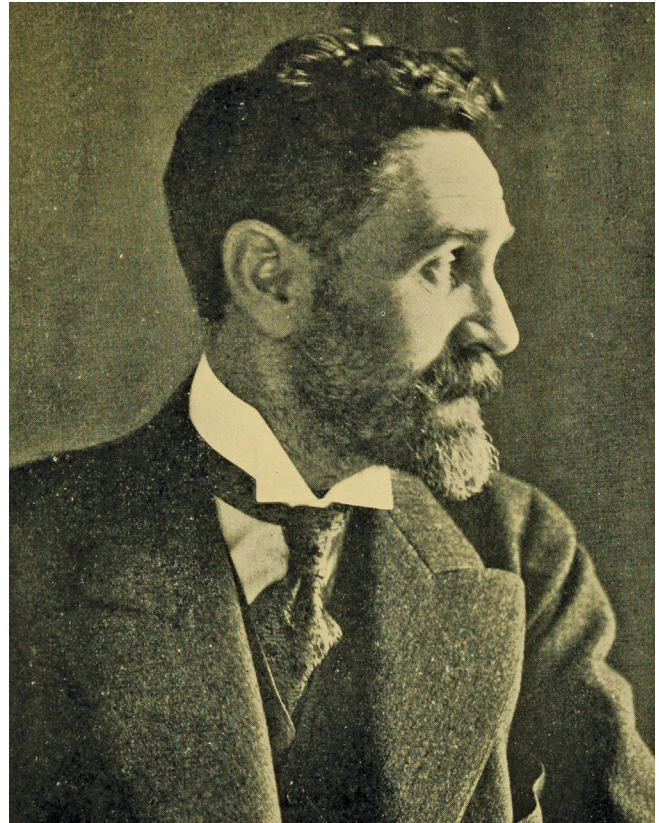
5 Tim Pat Coogan, *Ireland in the Twentieth Century* (London: Arrow, 2003), 50.



John M'Carthy, a local farmer, arose from his bed at two o'clock on Good Friday morning and decided to take a walk to a "holy well" near the coast to say his Easter prayers. Seeing Casement's collapsible boat stuck fast in the sand, he went to the house of a neighbor, Pat Driscoll, roused him from his bed, and together they dragged the boat up onto the dry beach. Inside the boat, M'Carthy found a knife and, in the sand nearby, tied with a cord, a box containing a thousand rounds of ammunition. Returning to his house, he shockingly found his young daughter playing with three loaded revolvers that she had found on the road near his house. However, their most significant discovery was the footprints of three men in the sand near the boat. They sent for the local police who, on arrival, began a search of the area.

Meanwhile, Casement, tired and cold, was shivering inside the ruins of a local castle known as McKenna's Fort. He was discovered by two police officers, Sergeant Thomas Hearn and Constable Bernard Reilly. Sergeant Hearn asked Casement who he was and what he was doing in the fort. He gave the officer a false name—Richard Morton—and said that he was merely a traveler just resting from a long hike. The officers were suspicious and decided to detain him under the authority of the "defensive regulations"—laws that permitted the authorities to detain anyone suspected of spying or espionage. Casement's two companions were nowhere to be found. The two officers took Casement to the nearby police station at Ardfert. At the station, Casement was searched, and they found two sheets of typewritten paper that had a series of numbers in a foreign script and phrases to correspond with them, which seemed to be some kind of code. The phrases included, "Await further instructions, further ammunition needed, and send another ship too."<sup>6</sup> Sergeant Hearn

telephoned authorities in Tralee for instructions and was ordered to send the prisoner, under guard, to Dublin. In Dublin, Casement was grilled by detectives who found out his true name. With the authorities now in possession of his real identity, he was sent to London, where he was confined in Brixton Prison.



Sir Roger Casement

On June 26, 1916, Sir Roger Casement was taken to the Old Bailey to face a charge of treason. The Tory MP, and later Lord Chancellor, F. E. Smith, was the chief prosecutor for the Crown, and Alexander Martin Sullivan, the king's sergeant in Ireland—the last person to hold that office—served as lead defense counsel. The trial judges were Chief Justice Avory, Sir Charles Darling, and Viscount Reading.<sup>7</sup> The trial lasted three days. You will now have a chance to either do a role play or read a scripted version of this historic trial.

<sup>6</sup> Max Caulfield, *The Easter Rebellion* (Dublin: Gill and MacMillan, 1995), 37.

<sup>7</sup> Fergal Tobin, *The Irish Revolution: An Illustrated History, 1912–25* (Dublin: Gill and Macmillan, 2013), 129–133.

# Roles

## Judges and Court Officer

### Chief Justice Sir Horace Edmund Avory

You should review court procedure with the king's coroner, who is there to assist you in running the court and maintaining order. At the beginning of the trial, you will be outside of the courtroom and, when everyone is in their assigned place, you and the other two judges will enter. The king's coroner will say "all rise" when you enter and "be seated" when you have assumed your position.

If this is a trial with a jury, then you will charge the jury by saying, "Members of the jury, the defendant at the bar is accused of violating the Treason Act of 1351, provisions of which include imagining the death of the king, levying war against the king in his realm, and adhering to the king's enemies. You should obey all my instructions during the trial, and you should render a fair and just verdict based on the presentation of the evidence."

At the beginning of the trial, you will ask the king's coroner to read the charges against the defendant and then ask for his plea, which will undoubtedly be not guilty.

You will then ask the prosecution attorney(s) and then the defense attorney(s) to make any opening remarks to the court.

You will then ask the prosecution attorney(s) if they would like to present any witnesses. Each time a witness is called, you should ask the king's coroner to swear them in.

When the prosecution has finished with all of their witnesses, you should then ask the defense attorney(s) to present their witnesses. The defense will decline to present any witnesses, so you should then proceed to have the defense and then the prosecution make any closing remarks.

You should then instruct the jury to retire and deliberate. If you are deciding the case without a jury, then you should take some time to reflect on your decision. At least two of the judges must agree on his guilt for him to be convicted. When they (or you) have reached a verdict, they should either inform you by written note (that you will read) or you can ask them to announce it to the court.

If the defendant is found not guilty, he will be immediately freed. If he is found guilty then you should allow him to make a final statement, after which you will sentence him to be hanged by the neck until dead.

### Sir Charles Darling and Viscount Reading

At the beginning of the trial, you will be outside of the courtroom and, when everyone is in their assigned place, you and the other two judges will enter. The king's coroner will say "all rise" when you enter and "be seated" when you have assumed your position.

You will assist Chief Justice Avory in running the trial. He will review the trial procedure with you.



If you are deciding the case without a jury, then you and the other two judges should take some time to reflect on your decision. At least two of the judges must agree that he is guilty for him to be convicted.

If the defendant is found not guilty, he will be immediately freed. If he is found guilty then Judge Avory will allow him to make a final statement after which he will sentence him to be hanged by the neck until dead.

### King's Coroner

You are the court officer who will be expected to perform several functions during the trial, including reading the indictment, taking the prisoner's plea, and carrying out any other orders delivered by the presiding judges. You should meet with Chief Justice Avory, and he will instruct you on any other duties he would like you to perform.

### Prosecution Attorneys

#### Attorney-General Sir Fredrick Smith, A. H. Bodkin, Travers Humphreys

Attorney-General Sir Frederick Smith is the lead prosecutor in this case, assisted by two other attorneys: A. H. Bodkin and Travers Humphreys. As attorneys, you will be expected to form a theory of the case. Essentially, what happened? You will then organize your witnesses to back up this theory with their direct testimony. You should have each witness write out specific questions you can ask them on the witness stand that will help them remember what they have to say about the case. You may not ask leading questions during direct testimony like, "Isn't it true that you saw Sir Roger Casement providing ammunition to a group of Irish Volunteers?" You may, however, ask leading questions under cross-examination. Finally, during the trial, in addition to asking questions of your witnesses and any cross-examination questions of opposing witnesses, you will be expected to give opening and closing remarks. In your opening remarks, you should describe for the court your theory of the case and what you intend to prove. In your closing remarks, you should briefly summarize for the court what your witnesses proved and any errors you heard from the opposing witnesses. It is hard to be an attorney. That is why real lawyers go to law school after college. Do your best!

You should specifically focus on the following points:

- Sir Roger Casement is a traitor who violated the Treason Act of Edward III and should be punished for his actions.
- He adhered to the king's enemies and attempted to seduce His Majesty's soldiers from their allegiance.
- He hoped Germany would win the war because he believed a win would lead to Irish independence.
- He was taken by a German submarine to the Irish coast in conjunction with an arms and ammunition delivery, hoping to ferment a violent, treasonous, insurrection against Britain.

## Defense Attorneys

### A. M. Sullivan, T. Artemus Jones, J. H. Morgan

A. M. Sullivan is the lead defense attorney in this case, assisted by two other defense attorneys: T. Artemus Jones and J. H. Morgan. As attorneys, you will be expected to form a theory of the case. Essentially, what happened? Unless you are going to have the defendant testify (he did not in the real trial), you will not have any witnesses, so you need to focus on cross-examination questions for the prosecution witnesses. In framing cross-examination questions, you may ask leading questions like, "Isn't it true, Mr. Jones, that Sir Roger Casement never said that Irish soldiers were to be used in combat on the Western Front?" In your opening remarks, you should describe for the court your theory of the case and why Sir Roger Casement should not be convicted. In your closing remarks, you should briefly summarize for the court why Sir Roger Casement should be spared. It is hard to be an attorney. That is why real lawyers go to law school after college. Do your best!

You should specifically focus on the following points:

- At the start of the trial, you should ask the court to dismiss the charges against Sir Roger Casement on the grounds that the charge in the indictment is the offense of "high treason by adhering to the king's enemies" elsewhere than in the king's realm, to wit, the Empire of Germany, contrary to the Treason Act of 1351. The defendant performed no treasonous act within the king's realm and thus cannot be indicted by this law. The judges will undoubtedly reject this proposal.
- You will not deny that Sir Roger Casement attempted to enlist Irish prisoners of war to join an Irish Brigade, but you will deny that his intent was treachery to the king.
- He did not go to Germany for the purpose of helping the Germans fight England, but to form an Irish Brigade to strive for something he and all other Irishmen had a right to strive for—freedom.
- You will admit that Sir Roger Casement did go to Ireland in conjunction with the Easter Rising, but you will say that his purpose was actually to discourage, not incite, any kind of insurrection.

### Defendant: Sir Roger Casement

You were born in Dublin County on September 1, 1864. You are a Protestant. You entered the British Foreign Service at the age of twenty-eight and first served the British Crown on the Niger Coast Protectorate. Later, you were appointed to Her Majesty's consul in the Portuguese province of Lourenco Marques. You served at this post for three years and in 1898, you became consul for the Portuguese possessions in West Africa, south of the Gulf of Guinea. You were employed on special service at Cape Town during the Boer War in South Africa from 1899 to 1900, and when the war ended you received the Queen's South Africa medal for your service. On August 20, 1900, you were transferred to Kinshasa, in the Congo State, serving as consul. In 1908, you were promoted to consul general at Rio de Janeiro, and on June 10, 1911, in recognition of your outstanding service, you were made a Knight of the Realm. On August 1, 1913, you decided to retire from the British Foreign Service and receive an annual pension. You decided to devote all your attention and energies to the goal of Irish independence.

Shortly after the Great War began in August 1914, you traveled to Germany along with another Irish leader, Joseph Plunkett, hoping to get German help to achieve Irish independence.

The German high command suggested that you go to a prisoner-of-war camp, where they were holding thousands of Irish prisoners of war, and attempt to enlist men into an Irish Brigade that they would train and arm. This Irish Brigade would eventually land in Ireland to fight against the British to achieve independence. You agreed and spent several months between late 1914 and early 1915 in the Limburg Prison Camp speaking to prisoners and distributing literature. However, you were able to enlist only fifty-two men into this Irish Brigade.

You were eventually sent by German submarine to the coast of Ireland, along with an arms shipment, in conjunction with the Easter Rising of 1916. You were captured, sent to London, and now stand accused of treason.

Before and during your trial, you will work with your three attorneys to frame cross-examination questions for the many prosecution witnesses that will be testifying against you. If you and your attorney decide that you will testify in your trial, you will not deny that you went to prisoner-of-war camps to convince soldiers to join an Irish Brigade, or that you landed in England during the Easter Rising, but you will adamantly swear that your motives were only for the achievement of Irish independence—not to help the Germans win the war. You do not consider yourself a traitor.

If you are convicted, the chief justice will allow you to make a final statement. You should be prepared to say the following:

"My Lord Chief Justice, there is an objection, possibly not good in law, but surely good on moral grounds, against the application to me here of this old English statute, 565 years old, that seeks to deprive an Irishman today of life and honor, not for adhering to the king's enemies, but for adhering to his own people. I am being tried, in truth, not by my peers of the present, but by peers of the dead past—not by the civilization of the twentieth century—but by the brutality of the fourteenth. Edward III was king, not only of the realm of England, but also the realm of France—but he was not king of Ireland. Yet his dead hand today may pull the noose around the Irishman's neck whose sovereign he was not. With all respect, I assert this court is to me, an Irishman, not a jury of my peers. This court—this jury—the public opinion of this country, England—cannot but be prejudiced against me—an Irishman—most of all in time of war. I did not land in England—I landed in Ireland. For the attorney-general, there is no Ireland—there is only the law of England. If I did wrong in making an appeal to Irishmen to join with me in an effort to fight for Ireland, it is by Irishmen, and by them alone, I can be rightfully judged. I assert from this dock that I am being tried here, not because it is just, but because it is unjust. Place me before a jury of my own countrymen—be they Protestant or Catholic—and I shall accept the verdict and bow to the statute and its penalties. I would add that the generous expressions of sympathy extended to me from many quarters, particularly from America, have touched me very much. In that country, as in my own, I am sure my motives are understood and not misjudged because the achievement of their liberties has been an abiding inspiration to Irishmen and to men elsewhere rightly struggling to be free. Gentlemen of the jury, I hope you will not take offense when I spoke of not being tried by a jury of my peers, but I would put it to you: how would you all feel if an Englishman accused of high treason had been taken to be tried before a tribunal in Ireland, when his only crime had been that he cared for England more than for Ireland? My lord, I have done. Do with me as you will."

## Prosecution Witnesses

### John Cronin

When the war broke out, you joined the British army and became a private in the 2nd Battalion of the Royal Munster Fusiliers. You were sent to France at the beginning of the war, and on August 27, you were wounded in action and taken prisoner by the Germans. All the Irish prisoners, including you, were separated from the other British soldiers and eventually sent to Limburg Prison Camp. You believe there were about twenty thousand prisoners in the camp. You first saw Sir Roger Casement, the defendant, dressed in civilian clothes. He was going around the camp talking to prisoners and distributing newspapers—one was called *The Gaelic American* and the other was *The Continental Times*. He seemed to have the privilege of going wherever he liked. He said that he was going to form an Irish Brigade. He asked you and the other prisoners why you wanted to suffer hunger and misery in this camp when you could have it better by joining the Irish Brigade. He told you and the others that you would be sent to Berlin as the guests of the German government. He said that when Germany won a sea battle against the British navy, the Irish Brigade would be landed in Ireland, where they would fight to free Ireland from the British. He also said that if Germany lost the war, they would give every man ten or twenty pounds sterling and free passage to America. You remember reading an article from *The Gaelic American* that was titled “The Crimes against Ireland.” It was written by the defendant. You believe that fifty-two of the prisoners joined the Irish Brigade. When you first went to Limburg, you were fed pretty well but after only a handful of prisoners joined the Irish Brigade, the Germans severely reduced the rations. They cut the bread allotment in half and gave you beets instead of potatoes. You were part of a prisoner-of-war exchange with the Germans and you returned to Britain from Limburg Camp in February 1916.

### Daniel O’Brien

You were a private in the 19th Hussars regiment. You were sent to France and were wounded in action during the retreat from Mons. You were taken prisoner by the Germans while you were recuperating in a hospital. You were first taken to a place called Döberitz, where there were about a couple hundred prisoners from various Irish regiments. On December 15, 1914, you were transferred by the Germans to Limburg Camp. There were only about fifty prisoners at first, but afterwards there were about 2,500 Irish prisoners of war. You first heard the defendant, Sir Roger Casement, speak just after Christmas. You heard him say, “Now is the time for Irish men to fight against England—now is the opportunity for doing so—join the Irish Brigade.” He said that if the German army won the war, they would be willing to land the Irish Brigade along with the German army in Ireland. They would fight against England there. He also said that if by chance the German army did not win the war, any man who joined the Irish Brigade would be given ten pounds sterling and free passage to America. At first, you and the other Irish prisoners of war behaved pretty well but, when you found out who he was and realized what he was saying, most of them booed and hissed at him. You even saw one soldier give him a shove. You did not join the Irish Brigade. You think that about fifty men joined. They were sent off to Berlin for training. After Casement left the camp, the Germans cut your rations. You and the others believed that it was because so few men decided to join the Irish Brigade.

**John Robinson**

You were a corporal in the Royal Army Medical Corps. You joined the British army in June 1906. At the outbreak of the war, you were stationed in Dublin, Ireland. You went to France on August 19, 1914, attached to the 13th Field Ambulance, and on August 24 you were taken prisoner at Thulin. You were wounded in the head, knee, and shoulder by artillery. You were first taken to a hospital in Germany and then sent to a prisoner-of-war camp in Sennelager. At first there was no difference between the British prisoners and the Irish prisoners, but after about three months, all the Irish prisoners, yourself included, were taken to Limburg Prison Camp. Limburg was filled with mostly Irish prisoners, but there were some Russian and French prisoners too. You first heard the defendant, Sir Roger Casement, speaking to a group of prisoners about forming an Irish Brigade. You remember him saying, "Now is the time to fight for Ireland and free it from British oppression. This is our best chance." He wanted you and the other Irish soldiers to join an all-Irish Brigade. He reminded you and the other men about the bad treatment you had all experienced at the hands of the English. He said that if the Germans were able to defeat the British navy at sea, they would land the Irish Brigade in Ireland, but if Germany did not win at sea, you were all to go to America. At first, he did not say anything about money, but then you think he said you might all be getting ten pounds sterling from the Germans. You heard him make speeches on four different occasions—about a week or so would elapse between the different speeches. You do not think the men liked what he was saying. On one occasion, you saw him get pushed. There was a lot of booing and hissing. On another occasion, he had to be escorted out by a couple of German soldiers because the crowd was getting very agitated. You did not join the Irish Brigade, but you did see a couple of other men join. The Germans gave them a special green uniform with a little harp on the collar and a harp on the cap. They were eventually sent off to Berlin.

**William Egan**

You joined the Royal Irish Rifles in September 1904. You were wounded at Neuve Chapelle in October 1914 and taken prisoner by the Germans. You were first sent to a hospital in Cologne. Three months later, in February 1915, you were transferred to the Limburg prisoner-of-war camp. You first saw Sir Roger Casement, dressed in dark civilian clothing, speaking to a group of prisoners about forming an Irish Brigade. Later, you were given a pamphlet by a German officer. It was titled *How to Free Ireland*. It was edited by Sir Roger Casement. You read a little of it and then tore it up. You knew that several men joined the Irish Brigade and that they were given a special uniform with a shamrock on the collar. When it became apparent to the Germans that not many were joining the Irish Brigade, they severely cut your food rations.

**Michael O'Connor**

You were a corporal in the Royal Irish Regiment. You went with the British Expeditionary Force in August 1914, and you were wounded and taken prisoner by the Germans on October 20. You were first taken to Darmstadt Prison Camp and then, in about the middle of December, you were sent to the Limburg prisoner-of-war camp. You remember seeing Sir Roger Casement at Limburg at about the end of December 1914. You heard him addressing some men. You heard him say to them, "Now is the time to strike a blow for Ireland" and "England is nearly beaten." There were about twenty men grouped around him, and many were booing and hissing. You remember that a sergeant-major from the Dragoon Guards called out that he was a traitor. You think the Germans then singled him out for some kind of punishment. You also saw a pamphlet, *Crimes*



*against Ireland*, signed by Sir Roger Casement. You left Limburg in October 1915 as part of a prisoner-of-war exchange with the Germans.

### Michael Moore

On August 9, 1904, you joined the South Lancashire Regiment. When the war broke out in 1914, you were transferred to the Royal Medical Corps. You went to France in August 1914, where you were taken prisoner by the Germans. You were first interned in Sennelager Prison Camp in Germany and then sent to the Limburg prisoner-of-war camp on December 22, 1914. There were thousands of Irish prisoners in the camp from several different regiments. You remember Sir Roger Casement coming to the camp. You had been there about a week before you first saw him. He was speaking to a group of about fifty men about an Irish Brigade he was forming to fight for Irish independence. A few months later, you heard him again address some prisoners. He was still urging prisoners to join the Irish Brigade. He told them that if they joined, they would get a special uniform, better food, and better housing. He said that eventually the Irish Brigade would be sent to a camp outside of Berlin as guests of the German government until such time as Germany was able to land the brigade in Ireland to fight for independence from Britain. You think there were about fifty who joined and that they were given special uniforms. They were quartered with the Russian prisoners in a special part of the camp and sent off to Berlin. Eventually, the Germans cut your rations, causing a lot of suffering among the prisoners in the camp.

### John Neill

You were a member of the 2nd Battalion, 18th Royal Irish. You were wounded and taken prisoner at La Bassée. You were first taken to Hanover and then transferred to the Limburg prisoner-of-war camp in late December. When you got to Limburg, you saw Sir Roger Casement there. You overheard him speaking to a group of Irish prisoners of war. He told them that they looked like very good soldiers and that even though they were prisoners, he believed the Germans would treat them well. He had a booklet in his hand with Irish Brigade written on the cover and said that he expected to fill it with names of men who wanted to join an Irish Brigade. He said the German government would equip the Irish Brigade with arms and ammunition and uniforms—and pay them every well. He told them that if Germany was able to gain a naval victory, then the Irish Brigade would be landed in Ireland to strike a blow for old Ireland and for independence. He told them that the Germans really liked the Irish and were sympathetic to their cause. He said that he was leaving the book with a sergeant, and that anyone who wanted to join just needed to sign his name. Then he left, promising to return in a few days. To your knowledge, no one signed the book. Eventually, though, you think a little more than fifty joined. They had special uniforms and were eventually sent from the camp to Berlin. You remember that Casement said the Irish Brigade would be fighting in Ireland to help their countrymen gain independence. He also said that maybe the Germans might send them to help the Turks fight against the Russians and that they might even be expected to help the Germans against the British. Casement did not think that would happen and he did not want it to happen.

### John M'Carthy

You are an Irish farmer. Your farm is located near Curragh Head—about a quarter mile from the sea. It was Good Friday morning and you left your house about two in the morning for a walk to the shore, where there is a well that contains “holy water.” You are a Catholic and you wanted to bless yourself with some of this water since it was Easter weekend. The well is about a mile from your farmhouse. When you got near the beach, you noticed a small boat about twenty or thirty



yards from the shore. It was grounded in the sand. There were four oars floating in the water, so you took them up to the shore, but you couldn't do anything for the boat. It was stuck fast in the sand. You decided to return home and get help. A few hours later, you returned with your neighbor, Pat Driscoll, and together you tried to move the boat but it was waterlogged and would not move. However, you found a dagger in the boat and a tin box in the sand on the shore. The box was tied up and you could not open it. You also noticed three footprints on the sand but did not see anyone. You and your neighbor decided to return to your home and seek more help. On the way you met your eight-year-old daughter, who was holding three loaded revolvers and a canvas bag that she must have found near the house. You were shocked. She could have hurt herself. You sent Pat Driscoll to get the police. When the police arrived, you gave them the tin box, the dagger, the bag, and the pistols and told them about the boat that was stranded on the shore. You have never seen the prisoner except for his picture in the newspaper. You never saw him that morning.

### Mary Gorman

You are a servant of John Allman, whose home is in Rathoneen, on the Irish coast. You remember the morning of Good Friday, April 21. You were up and about at 4:30 in the morning, doing your chores, when you saw three strange men passing the gate to the house. They were coming from the seashore and heading toward Ardfert, in the direction of an old fort at McKenna. One was a tall man wearing an overcoat with a knapsack across his shoulders. He was walking with a cane. They were walking quickly but you saw the face of the tall man. It was the defendant, Sir Roger Casement.

### Thomas John Hearn

You are a sergeant in the Royal Irish Constabulary stationed at Ardfert. You remember on the morning of April 21, a man named Pat Driscoll came to you with a report from John M'Carthy about a suspicious boat stranded on the coast. You went to the shore and, with the help of some local men, pulled the boat out of the water onto a sandbank. Then you went to M'Carthy's house, and he gave you a dagger, three pistols, a tin box, and a canvas bag that he said he had found and assumed were associated with this boat. When you looked into the canvas bag, you found a flash lamp, a map of the coast, and twenty rounds of ammunition. When you opened the tin box, you found nine hundred rounds of pistol ammunition. You examined the pistols, and they were all loaded. You packed all these items into M'Carthy's horse cart and sent them off to the station house. Then you and another police officer, Constable Riley, took your rifles and went off to search the area. After a few hours, you found a man at a place called McKenna's Fort. It is a circular Irish ruin with a trench all around it covered with brush. In the fort, you saw the prisoner who is now in the dock. You asked him what he was doing there, and he replied, "By what authority do you ask me this question?" You told him that you would ask him any question you wished and that if he did not give you proper answers, you would arrest him. Then you asked him his name and why he was hiding in these ruins. He said his name was Richard Morton. He said he had come from Dublin and had arrived in the fort in the morning and was just resting. He was on his way to Tralee. You were still suspicious. You asked him if he had any passport or papers and he said he had none. Then you noticed that the lower portion of his pants were wet and there was sea sand on his boots. So you figured that he was associated with that mysterious boat. You demanded that he accompany you to the police station for further questioning. When you got to the station, you searched him, and in his knapsack you found a large green and yellow flag with

the representation of a castle in the center, a pair of field glasses, a flash light, and forty rounds of pistol ammunition. At this point, you decided to formally charge him with the landing of arms on the coast of Ireland. Then he asked to see a lawyer, and you told him that he could certainly see an attorney as soon as one could be found. You also advised him that he was being arrested under the Defense of the Realm Regulations that empowered authorities to detain persons suspected of bringing weapons into the realm.

### Joseph Sandercock

You are an inspector of the Criminal Investigation Department, Scotland Yard. On the morning of April 23, you went to Euston Station to take the prisoner at the bar into custody. He had been sent to you by the authorities in Ireland. You told the accused that you were a police inspector and that he was being detained pending further charges. He asked you if you knew who he was, and you said that you did because he was rather well known in Britain. Then he said, "Then you know that I am Sir Roger Casement and that you are the first person I have told my true identity." He was about to make a statement when you cautioned him and told him that anything he said would be taken down and used in evidence for or against him in a future trial. You informed him that he would be seen by responsible officials later in the day, to which he replied, "I have nothing further to say."

### Sydney Ray Waghorn

You were the leading seaman on H.M.S. *Bluebell*, assigned to watch for suspected enemy vessels. On April 21, you remember seeing an unidentified ship off your port bow. You were about ninety miles off the southwest coast of Ireland. This other ship was about fifteen miles from your ship when you sighted her. When you got nearer, you noticed that she was flying Norwegian flags. You were ordered to signal her, asking for her name, and where she was bound. She replied that she was the *Aud* and was bound for Genoa, Italy. You signaled that you intended to escort her to Queenstown and that she needed to follow the *Bluebell*. At first, she hesitated, but your ship fired a shot across her bow, and then she obeyed. When you got near Queenstown, something happened, and the *Aud* stopped her engines. You noticed white smoke pouring from her starboard side. Then she showed two German flags at the masthead. She lowered two lifeboats and the crew piled into them and began rowing toward the *Bluebell*. The boats then put up a flag of truce and the men in the boats put up their hands and were taken onboard the *Bluebell*. Twenty-three Germans—seamen and officers—surrendered to you. They were placed under arrest. By this time, the *Aud* had sunk. All this happened in about ten minutes. She sank about a mile from the Irish coast.

### John Dempsey

You are a salvage diver who was employed by the admiralty to dive to the wreck of the *Aud* to determine her cargo. You were lowered down to the wreck of the ship, and when you reached the wreck, you noticed that she had a Norwegian flag painted on the hull. You found a hole on her starboard quarter that looked like it was made from an explosive blast. On the bottom of the sea near the hull, you saw a lot of rifles and ammunition. You brought up one of the rifles and a cartridge clip. You noticed there were thousands of other cartridge clips on the seabed near the hull. Then the weather got rough and you had to surface. Your crew examined the weapons and ammunition, and they appeared to be Russian. The rifle you brought up had a serial number, Cyrillic writing, and the year 1905.

# Script: Trial of Roger Casement

## Scene One: Opening Remarks

**NARRATOR:** The trial of Sir Roger Casement begins in the High Court of Justice in London, England, on Monday, June 26, 1916. Presiding over the court on behalf of the Crown is Lord Chief Justice of England Horace Avory, assisted by Sir Charles Darling and Viscount Reading.

**KING'S CORONER:** All rise for the judges. Oyez. My lords, the king's judges do strictly charge and command all manner of persons to keep silence, for they will now proceed to the plea of the Crown and arraignment of the prisoner upon his life. God save the king.

**JUSTICE AVORY:** The king's coroner will now read the indictment against the defendant.

**KING'S CORONER:** Sir Roger Casement, you stand indicted and charged for high treason for adhering to the king's enemies in the Empire of Germany contrary to the Treason Act 1351. The specific overt acts of treason are, first, on or about December 31, 1914, you solicited English prisoners of war then imprisoned at Limburg Camp in Germany to forsake their duty to the king and to join the armed forces of Germany and to fight against the king and his subjects; second, on or about February 19, 1915, you circulated and distributed leaflets to Irish prisoners of war in Limburg Camp in Germany that encouraged these prisoners to form an Irish Brigade that would be formed with the help of Germany to gain Irish independence; third, on or about April 12, 1916, you set forth from the Empire of Germany as a member of a warlike and hostile expedition undertaken and equipped by the said enemies of our Lord the king, having for its object the introduction into and landing on the coast of Ireland of arms and ammunition to be used to make war on the king and his subjects. Sir Roger Casement, how saith you? Do you plead guilty to the charge of high treason and these overt acts?

**ROGER CASEMENT:** Not guilty.

**KING'S CORONER:** (*Looking at the jury*) These good men below have been selected to decide your guilt or innocence.

**JUSTICE AVORY:** Prosecution may make their opening remarks.

**ATTORNEY-GENERAL FREDERICK SMITH:** May it please your lordships. Gentlemen of the jury, I appear with my learned friends on behalf of the Crown to support the charge of high treason against the prisoner at the bar, who has the advantage of being defended by my learned friends, Mr. Sullivan, Mr. Artemus Jones, and Mr. Morgan. The charge upon which the prisoner is arraigned is a grave one. The law knows none graver. The law of treason is primarily founded upon a statute as old as the reign of King Edward III. Treason is the doing or designing anything which would lead to the death, bodily harm, or restraint of the king; levying war against him within the realm; or adhering to his enemies within or without the realm. It is alleged here by the Crown that the prisoner is guilty of this most heinous crime. He has adhered to the king's enemies and has attempted to seduce His Majesty's soldiers from their allegiance. It will be for you to consider, when you know all the facts, whether the Crown has proved all these allegations. Between the months of September and December 1914, a large number of brave British soldiers, many of them from Ireland, were taken captive by the Germans. In December 1914, many of the Irish soldiers were imprisoned in a large camp at Limburg. The Germans had

a plan, and Roger Casement was to play a willing part. These prisoners were collected by the Germans for the purpose of listening to lectures on Irish history and how they as a people had been abused by England. They were assembled on more than one occasion, and were then addressed collectively, and in some cases individually, by Roger Casement, who moved about the camp freely, and with the full knowledge and approval of the Germans. Evidence will show that between December 1914 and February 1915, the defendant repeatedly addressed these poor prisoners of war, telling them that he was forming an Irish Brigade and inviting them to join. He repeatedly told them that it was much better for Ireland if Germany won the war, and that Irish soldiers had the best opportunity they ever had of striking a blow for Ireland by helping the Germans defeat England. He said that those who joined the Irish Brigade would be sent to Berlin, where they would be guests of the German government. In the event of Germany winning a sea battle, he—Roger Casement—would land a brigade in Ireland to defend the country against the enemy England. He also told these men that in the event of Germany losing the war, either he or the German government would give each man who joined the brigade a bonus of ten pounds and free passage to America. You might wonder how these promises were met by these unfortunate prisoners. They were met with boos and hisses. On one occasion, he was driven out of the camp. One soldier actually struck the defendant. Those Irish prisoners who unfavorably received the proposals made by the prisoner were punished by the Germans by having their rations cut. Gentlemen, I have said enough at this time about the treasonable actions of the prisoner in Germany, but we will also show how the prisoner attempted to smuggle arms and ammunition into Ireland to bring the war directly into the realm. The prisoner, blinded by hatred of this country, played a desperate game and lost. We believe you will agree that Roger Casement is a traitor and should be punished for his actions.

**JUSTICE AVORY:** Defense may make their opening remarks.

**A. M. SULLIVAN:** Before the defense makes any opening statements, we would first like to make a submission to the Court that the indictment against the defendant should be quashed on the grounds that it discloses no offense known to English law. The prisoner is charged with a species of treason known as adhering to the king's enemies. The charge in the indictment is the offense of "high treason by adhering to the king's enemies elsewhere than in the king's realm, to wit, the Empire of Germany, contrary to the Treason Act of 1351." The defendant performed no treasonous act within the king's realm and thus cannot be indicted by this law.

**JUSTICE AVORY:** My view is, although it is not necessary to state it for the purposes of this case, that the words "or elsewhere" govern both limbs of the sentence—both the adhering to the king's enemies and the aid and comfort to the king's enemies. I believe that it is an offense to adhere within the realm or without the realm to the king's enemies, and that it is equally an offense to adhere within the realm to the king's enemies by giving them aid and comfort without the realm. I am overruling your submission and the motion to quash the indictment is refused. Do you now wish to make opening remarks?

**SULLIVAN:** Yes, your Lordship. Gentlemen of the jury, defending a man in a criminal court is always a serious responsibility and when the charge against him is a capital charge, and one in which the issue is life or death, that responsibility becomes still greater and heavier. The defense trusts your judgment of the facts in this case but cautions you that if your verdict should be to the smallest degree colored by passion, prejudice, or preconception, it will reflect badly on the British legal system. The trial is for the life of a man, but it is more than that—you are representing

your country and the prisoner is not a countryman of yours. It is your duty to demonstrate to the world that even a native of Ireland can get a fair trial in England. The question you must decide is, Did the prisoner at the bar adhere to the king's enemies in Germany? In plain language, most of the allegations against the defendant, Sir Roger Casement, were that while in Germany he recruited fifty-two Irishmen to aid Germany in the war against England. We believe that the intention of the prisoner is the whole substance of the offense of treason. It is his view of his own acts that must justify or condemn him. Unless he intended treachery to the king, the fact that others used his actions to their advantage, against his intention and perhaps to the public detriment of the realm, does not make him guilty of treason. The essence of treason is the evil mind that plans it. The evidence that will be introduced by the prosecution against Sir Roger Casement with reference to acts of high treason which they will say he committed in Germany were consistent with what we regard as the views of an Irishman—a loyal and patriotic Irishman—who, stirred to the depths by events that had taken place in Ireland prior to the war, had gone to Germany, not for the purpose of helping the Germans to fight England, but for the purpose of forming an Irish Brigade to strive for something he and all other Irishmen had a right to strive for: freedom.

## Scene Two: Prosecution Witnesses

**JUSTICE AVORY:** Prosecution may call their first witness.

**SMITH:** The prosecution calls Mr. John Cronin.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**JOHN CRONIN:** I do.

**SMITH:** Mr. Cronin, can you tell the court where you live and briefly how you became a prisoner of war?

**CRONIN:** When the war broke out, I enlisted in the British army and became a private in the 2nd Battalion of the Royal Munster Fusiliers. I was sent to France at the beginning of the war, and on August 27, I was wounded in action and taken prisoner by the Germans. All the Irish prisoners were separated from the other British soldiers—I think there were more than two thousand of us—and we were sent to Limburg Prison Camp.

**SMITH:** Did you see anyone at this prison camp, besides the Germans, who seemed to be in charge?

**CRONIN:** Yes, the prisoner in the dock. He was dressed in civilian clothes and was going around the camp talking to prisoners and distributing newspapers—one was called *The Gaelic American* and the other was called *The Continental Times*. He seemed to have the privilege of going wherever he liked.

**SMITH:** (*Showing a copy of Document A*) Is this an example of what he was giving the prisoners?

**CRONIN:** Yes.

**SMITH:** The prosecution would like to enter this as an exhibit.

**CHIEF JUSTICE AVORY:** King's coroner, enter this as exhibit A.

**SMITH:** In addition to showing you literature like the exhibit just entered into the court record, what else was he saying to you and the other Irish prisoners?



**CRONIN:** He said that he was going to form an Irish Brigade. He asked us why we wanted to suffer hunger and misery in this camp when we could have it much better by joining the Irish Brigade. He told us that we would be sent to Berlin as guests of the German government.

**SMITH:** What did he say would be the purpose of this Irish Brigade?

**CRONIN:** He said that when Germany won a sea battle against the British navy, the Irish Brigade would be landed in Ireland, where they would fight to free Ireland from the British.

**SMITH:** Did he say what would happen to the soldiers who volunteered for this Irish Brigade if Germany did not win the war?

**CRONIN:** Yes, he said that Germany would give every man ten or twenty pounds sterling and free passage to America.

**SMITH:** Did you read any of the literature that the defendant was distributing?

**CRONIN:** Yes, I read some of the articles—I remember one from *The Gaelic American* that was titled “The Crimes against Ireland.”

**SMITH:** Do you know if any of the prisoners actually decided to join the so-called Irish Brigade?

**CRONIN:** Yes, when I was at the camp, fifty-two of the prisoners joined. The first to join was a corporal in the Royal Irish Regiment—his name was Quinless—and I knew a few others—Private Keogh of the Connaught Rangers and Private Bailey of the Royal Irish Rifles.

**SMITH:** How were you and the other prisoners treated at the prison camp?

**CRONIN:** When we first went to Limburg, we were fairly well treated in regards to food. After Casement had spoken to us, those who refused to join the Irish Brigade saw our food ration drop. The Germans reduced us from 750 grams of bread to 300 grams and they substituted mangolds—you know, those beets that they feed to cattle—for potatoes.

**SMITH:** Do you know what happened to those men who joined the Irish Brigade?

**CRONIN:** As far as I know, they were sent to Berlin. I wanted nothing to do with them. I was part of a prisoner-of-war exchange with the Germans and was sent back to Britain from Limburg Camp in February 1916.

**SMITH:** No further questions of this witness.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Mr. Cronin, isn't it true that you saw and heard the defendant speak before the war?

**CRONIN:** Yes, I remember hearing him speak in Ireland—in the city of Cork—about nine months before the war broke out. He was speaking about organizing the Irish Volunteers. He and the other speakers were appealing for recruits.

**SULLIVAN:** And isn't it true, Mr. Cronin, that these volunteers that were being recruited would be fighting for Irish independence in Ireland?

**CRONIN:** That was what I heard.

**SULLIVAN:** Now Mr. Cronin, isn't it true that the defendant spoke of Germany having won the war before the Irish Brigade was to be moved to Ireland?

**CRONIN:** No.



**SULLIVAN:** But the seas were to be clear of interference from the British navy before the brigade was to go to Ireland, true?

**CRONIN:** Yes.

**SULLIVAN:** Mr. Cronin, isn't it true that there were other prisoners at Limburg Camp, including French and Russians, and that the Germans reduced their rations along with the Irish prisoners?

**CRONIN:** Yes, I guess so.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**TRAVERS HUMPHREYS:** The prosecution calls Mr. Daniel O'Brien.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**DANIEL O'BRIEN:** I do.

**HUMPHREYS:** Mr. O'Brien, can you tell the court how you came to find yourself in Limburg prisoner-of-war camp?

**O'BRIEN:** I was a private in the 19th Hussars regiment. I was sent to France and was wounded in action during the retreat from Mons. I was taken prisoner while I was in the hospital. I was first taken to a place called Döberitz, where there were about a couple hundred prisoners from various Irish regiments. On December 15, 1914, I was transferred to Limburg. There were only about fifty prisoners at first, but later there were about 2,500 Irish prisoners of war.

**HUMPHREYS:** Besides the prisoners of war, do you remember anyone else coming there—anyone making speeches to the prisoners?

**O'BRIEN:** You mean that man (*pointing to the defendant*). Yes, I recognize the prisoner—he spoke to all the men. I heard him make a speech for the first time just after Christmas.

**HUMPHREYS:** What did he say?

**O'BRIEN:** I heard him say, "Now is the time for Irish men to fight against England—now is the opportunity for doing so—join the Irish Brigade."

**HUMPHREYS:** What else did he say?

**O'BRIEN:** He said that if the German army was successful in winning the war, they would be willing to land the Irish Brigade along with the German army in Ireland, and they would fight against England there. He also said that if by chance the German army did not win the war, any man who joined the brigade would be given ten pounds sterling and free passage to America.

**HUMPHREYS:** How did the men react to his speeches?

**O'BRIEN:** At first, they behaved all right until they found out who he was and realized what he was saying—then they booed and hissed him right out of the camp. I saw one of the prisoners actually shove him.

**HUMPHREYS:** Did you join the Irish Brigade?

**O'BRIEN:** No—if I did, I don't think I would be here today.

**HUMPHREYS:** Did any of the men join?

**O'BRIEN:** Yes, I think there were fifty men total who decided to join. One of my friends—stupid bugger—O'Callaghan, joined. He, along with the others, was sent off to Berlin.

**HUMPHREYS:** Did anything happen to you and the other men who refused to join the Irish Brigade?

**O'BRIEN:** Yes, we got punished by the Germans—they cut our rations—we could just barely survive.

**HUMPHREYS:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Can you tell me how long after you arrived in Limburg you first heard Sir Roger Casement making any kind of speech?

**O'BRIEN:** About two months.

**SULLIVAN:** Did he speak at all about the Irish Volunteer movement?

**O'BRIEN:** No—he only spoke about the formation of an Irish Brigade.

**SULLIVAN:** Did he say that the Irish Brigade would only be used in Ireland?

**O'BRIEN:** Yes.

**SULLIVAN:** So, he said they would be transferred to Ireland by Germany when and if they won the war?

**O'BRIEN:** Yes.

**SULLIVAN:** Mr. O'Brien, isn't it true that the Germans began slowly reducing the rations of the prisoners in February, and that reduction went on month by month—even after the defendant had left the camp?

**O'BRIEN:** Yes.

**SULLIVAN:** And isn't it true that these reductions in rations applied to every prisoner in the camp, including the French and the Russians?

**O'BRIEN:** Yes.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**A. H. BODKIN:** The prosecution calls Mr. John Robinson.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**JOHN ROBINSON:** I do.

**BODKIN:** Mr. Robinson, can you tell the court how you found yourself at Limburg prisoner-of-war camp?

**ROBINSON:** I was a corporal in the Royal Army Medical Corps. I joined the army in June 1906. At the outbreak of the war, I was stationed in Dublin. I went to France on August 19, 1914, attached to the 13th Field Ambulance, and on August 24 I was taken prisoner at Thulin. I was wounded in the head, knee, and shoulder by artillery. I was first taken to a hospital in Germany and then sent to a prisoner-of-war camp in Sennelager. At first, there was no difference between the British

prisoners and the Irish prisoners, but after about three months all the Irish prisoners—myself included—were taken to Limburg Prison Camp. It was mostly all Irish prisoners there—just a small number of French and Russian prisoners.

**BODKIN:** Do you recognize the prisoner at the dock?

**ROBINSON:** I remember him—Sir Roger Casement. I saw him in the camp—he was speaking about forming an Irish Brigade.

**BODKIN:** What do you remember him saying?

**ROBINSON:** I remember him saying to us that now was the time to fight for Ireland and free it from British oppression. That this was our best chance. He wanted us to join an all-Irish Brigade. He reminded us about the bad treatment we had all experienced at the hands of the English.

**BODKIN:** Did he say with whom the Irish Brigade was going to fight?

**ROBINSON:** He said that if the Germans were able to defeat the British navy at sea, they would land the Irish Brigade in Ireland, but if Germany did not win at sea, we were all to go to America. At first, he did not say anything about money, but then I think he said we might all be getting ten pounds sterling from the Germans.

**BODKIN:** About how many men heard him speak at one time, and how often?

**ROBINSON:** There were generally forty or fifty men. I heard him make speeches on four different occasions—about a week or so would elapse between the different speeches.

**BODKIN:** What kind of reception did he get from the men?

**ROBINSON:** Very poor. On one occasion, I saw him get pushed. There was a lot of booing and hissing. On another occasion, he had to be escorted out by a couple of German soldiers because the crowd was getting very agitated.

**BODKIN:** Did you join the Irish Brigade?

**ROBINSON:** No. But I did see a couple of men who did join—the Germans had given them a special green uniform with a little harp on the collar and a harp on the cap. They were eventually sent off to Berlin.

**BODKIN:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Did the defendant say that the Irish Brigade was to fight for Ireland?

**ROBINSON:** Yes.

**SULLIVAN:** So, there is no doubt in your mind that he was only suggesting the Irish Brigade would be used to fight in Ireland?

**ROBINSON:** Yes.

**SULLIVAN:** Did you ever hear Sir Roger Casement—prior to the war—make any speeches in Ireland regarding the formation of Irish Volunteers?

**ROBINSON:** I never heard him say anything about that.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**BODKIN:** The prosecution calls Mr. William Egan.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**WILLIAM EGAN:** I do.

**BODKIN:** Mr. Egan, can you tell the court how you found yourself at Limburg prisoner-of-war camp?

**EGAN:** I joined the Royal Irish Rifles in September 1904. I was wounded at Neuve Chapelle in October 1914 and taken prisoner by the Germans. I was first sent to a hospital in Cologne. Three months later, in February 1915, I was transferred to Limburg prisoner-of-war camp.

**BODKIN:** Can you tell the court when you first saw the defendant?

**EGAN:** I saw a tall man, dressed in dark clothing, speaking to three prisoners—it was the prisoner in the dock.

**BODKIN:** Did you ever hear or read anything associated with the defendant?

**EGAN:** I was given a pamphlet by a German officer. It was titled *How to Free Ireland*. It was edited by Sir Roger Casement. I read a little of it and then tore it up.

**BODKIN:** Do you know if any of the men in the camp joined the so-called Irish Brigade?

**EGAN:** When I was there, I know that several men joined this brigade—I think about fifty-two. They were given a special uniform with a shamrock on the collar.

**BODKIN:** Did anything happen to you and the other prisoners who refused to join this Irish Brigade?

**EGAN:** Yes—they gave us less food.

**BODKIN:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Did you live in Dublin prior to the war breaking out?

**EGAN:** Yes.

**SULLIVAN:** Did you ever see Irish Volunteers armed and drilling in Dublin?

**EGAN:** No.

**SULLIVAN:** Are you sure about that? You never saw armed men drilling in Dublin?

**EGAN:** No.

**SULLIVAN:** When did the Germans begin reducing the food rations at Limburg?

**EGAN:** They were reduced a few weeks after I arrived—in February.

**SULLIVAN:** Were the rations reduced for everyone?

**EGAN:** Yes.

**SULLIVAN:** Isn't it true that they reduced the rations again in April and that it applied to every prisoner in the camp?

**EGAN:** Yes.

**SULLIVAN:** And wasn't recruiting for the Irish Brigade going on from up to and beyond April?

**EGAN:** Yes.

**SULLIVAN:** So, isn't it true that not only the men who did not join but every man in the camp had their rations reduced?

**EGAN:** No, those who joined were moved to a special place in the camp and given better food.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**TRAVERS HUMPHREYS:** The prosecution calls Michael O'Connor.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**MICHAEL O'CONNOR:** I do.

**HUMPHREYS:** Mr. O'Connor, can you tell the court how you found yourself at Limburg prisoner-of-war camp?

**O'CONNOR:** I was a corporal in the Royal Irish Regiment. I went with the British Expeditionary Force in August 1914 and I was wounded and taken prisoner by the Germans on October 20. I was first taken to Darmstadt, and then about the middle of December I was sent to Limburg prisoner-of-war camp.

**HUMPHREYS:** Do you remember seeing and hearing the defendant at the camp?

**O'CONNOR:** Yes, I remember seeing Sir Roger Casement at Limburg about the end of December 1914. I heard him addressing some men. I heard him say to them, "Now is the time to strike a blow for Ireland" and "England is nearly beaten." There were about twenty men grouped around him and many were booing and hissing. I remember that a sergeant-major from the Dragoon Guards called out that he was a traitor. I think the Germans then singled him out for some kind of punishment.

**HUMPHREYS:** Did you see any literature authored by the defendant?

**O'CONNOR:** Yes, I saw one that was entitled *Crimes against Ireland*, signed by Sir Roger Casement.

**HUMPHREYS:** Did you hear the prisoner speak again?

**O'CONNOR:** No, I was rather lucky. I left Limburg in October 1915—I came home as part of a prisoner-of-war exchange with the Germans.

**HUMPHREYS:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** No, your honor.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**BODKIN:** The prosecution calls Mr. Michael Moore.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**MICHAEL MOORE:** I do.

**BODKIN:** Mr. Moore, can you tell the court how you found yourself at Limburg prisoner-of-war camp?

**MOORE:** On August 9, 1904, I joined the South Lancashire Regiment. When the war broke out in 1914, I was transferred to the Royal Medical Corps. I went to France in August 1914, where I was taken prisoner by the Germans. I was first interned in Sennelager, Germany, and then sent to Limburg prisoner-of-war camp on December 22, 1914. There were about two thousand prisoners there—all Irish like me—from different regiments.

**BODKIN:** When did you first encounter the prisoner at the bar?

**MOORE:** I remember Sir Roger Casement coming to the camp. I had been there about a week before I first saw him. I saw him speaking to some men. He told them that he had come to the camp for the purpose of forming an Irish brigade and wanted men to join.

**BODKIN:** Do you remember hearing him speak again?

**MOORE:** Yes, a few months later, in February, I heard him address some prisoners. He was still urging prisoners to join the Irish Brigade. He told them that if they joined, they would get a special uniform, better food, and better housing. He said that eventually the Irish Brigade would be sent to a camp outside of Berlin to be guests of the German government until such time as Germany was able to land the brigade in Ireland.

**BODKIN:** Do you know if any did join?

**MOORE:** Yes, I think there were about fifty who joined—they were given special uniforms and they were quartered with the Russian prisoners in a special part of the camp.

**BODKIN:** Were the rations of the men who did not join cut?

**MOORE:** Yes, beginning in February the Germans reduced our food.

**BODKIN:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Mr. Moore, did Sir Roger Casement discuss what was to happen to the Irish Brigade if Germany lost the war?

**MOORE:** Yes. If Germany lost the war, he said, the Irish Brigade would be given money and free passage to America.

**SULLIVAN:** Did he speak about the Irish Volunteer movement?

**MOORE:** Not to my knowledge.

**SULLIVAN:** Was there no reference to home rule in the event of Germany winning the war?

**MOORE:** Yes, he said that Germany would give Ireland home rule if they won the war.

**SULLIVAN:** But isn't it true that he said nothing about the Irish Brigade succeeding in winning home rule?

**MOORE:** No.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.



**JUSTICE AVORY:** Prosecution may call their next witness.

**BODKIN:** The prosecution calls Mr. John Neill.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**JOHN NEILL:** I do.

**BODKIN:** Mr. Neill, can you tell the court how you found yourself at Limburg prisoner-of-war camp?

**NEILL:** I was a member of the 2nd Battalion, 18th Royal Irish. I was wounded and taken prisoner at La Bassée. I was first taken to Hanover and then transferred to Limburg prisoner-of-war camp in late December.

**BODKIN:** When did you first see the prisoner, and what was he saying?

**NEILL:** When I got to Limburg, I saw Sir Roger Casement there. I overheard him speaking to a group of Irish prisoners of war, and he told them that they looked like very good soldiers and that even though they were prisoners, he believed the Germans would treat them well. He had a booklet in his hand with "Irish Brigade" on the cover, and he said that he expected to fill it with names of men who wanted to join the Irish Brigade. He said the German government would equip the brigade with arms and ammunition and uniforms—and pay them very well. He told them that if Germany was able to gain a naval victory, the Irish Brigade would be landed in Ireland to strike a blow for old Ireland and for independence. He told them that the Germans really liked the Irish and were sympathetic to their cause. He said that he was leaving the book with a sergeant—I forget his name—and that anyone who wanted to join just needed to sign his name. Then he left, promising to return in a few days.

**BODKIN:** Did anyone sign the book?

**NEILL:** No one signed the book on that day. In fact, I never saw anyone sign that book.

**BODKIN:** Do you know if any men joined this Irish Brigade?

**NEILL:** Yes, eventually I think a little more than fifty joined. They had special uniforms and were eventually sent from the camp to Berlin—I guess for training.

**BODKIN:** Did you hear Sir Roger Casement say anything about where these Irish Brigade soldiers would be fighting?

**NEILL:** Yes. He said they would be fighting in Ireland—to help their countrymen gain independence. But he also said that maybe the Germans might send them to help the Turks fight against the Russians—and that they might even be expected to help the Germans against the British. But he did not think that would happen, and he did not want it to happen.

**BODKIN:** So, Mr. Neill, you heard Sir Roger Casement say that the Irish Brigade might actually be fighting with the Germans against the British?

**NEILL:** Yes.

**BODKIN:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** Yes, your honor. Isn't it true that when you heard Sir Roger Casement discussing whom the Irish Brigade might be fighting, he was not giving any kind of formal presentation—he was just answering questions?

**NEILL:** Yes.

**SULLIVAN:** And isn't it true that he was not suggesting that he intended the Irish Brigade to be formed to fight anywhere but in Ireland, but that it was possible the Germans might deploy them somewhere else—might ask them to fight against the Russians?

**NEILL:** Yes—he did make a point of saying he did not want the Irish Brigade fighting anywhere but in Ireland.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down. The judges have instructed me to inform the court that we will stand in recess until tomorrow morning.

### Scene Three: Testimony about Casement's Landing on the Irish Coast

**NARRATOR:** The trial continues with further testimony from the prosecution.

**SMITH:** The prosecution calls Mr. John M'Carthy.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**JOHN M'CARTHY:** I do.

**SMITH:** Can you tell the court where you live and why you happened to be on the Irish coast on the morning of April 21?

**M'CARTHY:** I am a farmer. My farm is near Curragh Head—about a quarter mile from the sea. It was Good Friday morning and I left my house at about two in the morning for a walk to the shore. There is a Holy Well there and I wanted to bless myself with some—it being Easter. It is about a mile from my farmhouse. When I got near the shore, I noticed a small boat about twenty or thirty yards from the shore. It was grounded. There were four oars floating in the water and I took them up to the shore, but I couldn't do anything for the boat—it was stuck fast in the sand.

**SMITH:** So, what did you do next?

**M'CARTHY:** I decided to return home and get help. A few hours later, I returned with my neighbor, Pat Driscoll, and we tried to move the boat, but it was waterlogged and would not move.

**SMITH:** Did you find anything in the boat or along the shore?

**M'CARTHY:** Yes, I found a dagger in the boat and then I found a tin box in the sand on the shore. It was tied up and I did not open it. I also noticed three footprints on the sand but did not see anybody. My neighbor and I decided to return to my home and seek more help. On the way, we met my eight-year-old daughter and she was holding three revolvers and a canvas bag that she must have found near the house. I was shocked. She could have hurt herself. I sent Pat Driscoll to get the police. When the police arrived, I gave them the tin box, the dagger, the bag, and the pistols and told them about the boat that was stranded on the shore.

**SMITH:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question the witness?

**SULLIVAN:** Yes, your honor. To be sure, Mr. M'Carthy, you have never seen the prisoner at the bar until your presence in this courtroom, correct?

**M'CARTHY:** I never saw him on the beach or elsewhere until today.

**SULLIVAN:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**SMITH:** The prosecution calls Mrs. Mary Gorman.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**MARY GORMAN:** I do.

**SMITH:** Can you tell the court where you live and what you saw on the morning of April 21?

**GORMAN:** I am a servant of John Allman, whose home is in Rathoneen. I remember the morning of Good Friday, April 21. I was up and about at 4:30 in the morning—doing my chores—when I saw three strange men passing the gate to the house. They were coming from the seashore and heading toward Ardfert. One was a tall man, and he was wearing an overcoat and had a knapsack across his shoulders. He was walking with a cane. They were walking quickly, but I saw the face of the tall man.

**SMITH:** Is that man in the courtroom?

**GORMAN:** Yes, (*pointing at Casement*) there he is.

**SMITH:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question the witness?

**SULLIVAN:** No questions, your honor.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** The prosecution may call their next witness.

**HUMPHREYS:** The prosecution calls Mr. Thomas John Hearn.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**THOMAS JOHN HEARN:** I do.

**HUMPHREYS:** Can you please tell the court how you came to arrest the prisoner at the bar—Sir Roger Casement?

**HEARN:** I am a sergeant in the Royal Irish Constabulary stationed at Ardfert. I remember, on the morning of April 21, that a man named Driscoll came to me with a report from John M'Carthy about a suspicious boat stranded on the coast. I went to the shore and, with the help of some local men, pulled the boat out of the water onto a sandbank. Then I went to M'Carthy's house, where he handed me a dagger, three pistols, a tin box, and a canvas bag that he said he had found and assumed were associated with this boat. When I looked in the canvas bag, I found a flash lamp, a map of the coast, and twenty rounds of ammunition. When I opened the tin box, I found nine hundred rounds of pistol ammunition. I examined the pistols and they were all loaded. I packed all these items into M'Carthy's horse cart and sent them off to the station house. Constable Riley and I took our rifles and went off to search the area.

**HUMPHREYS:** What did you find?

**HEARN:** We found a man at a place called McKenna's Fort. It is a circular ruin with a trench all around it covered with brush. In the fort, I saw the prisoner who is now in the dock. I asked him what he was doing there, and he replied, "By what authority do you ask me this question?" I told him that I would ask him any question I wished, and if he did not give me proper answers then I would arrest him. Then I asked him his name and why he was hiding in these ruins.

**HUMPHREYS:** What did he say?

**HEARN:** He said his name was Richard Morton. He said he had arrived from Dublin in the morning and was just resting—on his way to Tralee.

**HUMPHREYS:** What did you say next?

**HEARN:** I was suspicious. I asked him if he had any passport or papers and he said he had none. Then I noticed that the lower portion of his pants were wet and there was sea sand on his boots.

**HUMPHREYS:** So what did you do then?

**HEARN:** I figured that he was associated with that mysterious boat, so I demanded that he accompany me to the police station for further questioning. When we got to the station, I searched him and, in his knapsack, I found a large green and yellow flag with the representation of a castle in the center, a pair of field glasses, a flashlight, and forty rounds of pistol ammunition. At this point, I decided to formally charge him with the landing of arms on the coast of Ireland.

**HUMPHREYS:** What did he say then?

**HEARN:** He asked to see a lawyer.

**HUMPHREYS:** What effect would the landing of cargo—not just three pistols, but a cargo of thousands of rifles and millions of rounds of ammunition—have on Ireland?

**HEARN:** I would have to say that it would have a very grave effect.

**HUMPHREYS:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**T. ARTEMUS JONES:** Yes, your honor. Was Casement unarmed when you detained him at the fort?

**HEARN:** Yes.

**JONES:** So he was not in the fort for any military purpose?

**HEARN:** I cannot say that.

**JONES:** When he asked for a lawyer, did you tell him at that time that he would enjoy all the privileges of the British constitution?

**HEARN:** No.

**JONES:** What did you say to him?

**HEARN:** I said, of course he could have a lawyer.

**JONES:** Isn't true that when you formally arrested Sir Roger Casement, you charged him under the Defense of the Realm Regulations?

**HEARN:** Yes.

**JONES:** And isn't it true that these regulations only place some restriction on the importation of arms, but that the drilling and training of armed men is permitted to take place without interference by the authorities?

**HEARN:** Yes.

**JONES:** Do you remember the Arms Proclamation of 1911—before the war?

**HEARN:** Yes.

**JONES:** As an officer of the constabulary, were you concerned in acting under this proclamation?

**HEARN:** Yes.

**JONES:** As a matter of common knowledge in the country, was there, prior to that, a very large importation of arms in the north of Ireland?

**HEARN:** Yes.

**JONES:** Did this result in widespread arming of the people in both northern and southern Ireland?

**HEARN:** Yes.

**JONES:** Did the authorities interfere with the people acquiring arms?

**HEARN:** No. Actually, when the war broke out, the proclamation against the importation of arms was withdrawn—on August 16, if I remember correctly.

**JONES:** So, the arming of the population of Ireland went on unrestricted for a while?

**HEARN:** Yes.

**JONES:** So, there was no real reason why Sir Roger Casement should have been detained because he had a pistol and some ammunition?

**HEARN:** I suppose so—but he seemed very suspicious.

**JONES:** No further questions.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**BODKIN:** The prosecution calls Mr. Joseph Sandercock.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**JOSEPH SANDERCOCK:** I do.

**BODKIN:** Can you please tell the court about your examination of the prisoner at the bar—Sir Roger Casement?

**SANDERCOCK:** I am an inspector of the Criminal Investigation Department, Scotland Yard. I went, on the morning of April 23, to Euston Station to take the prisoner at the bar into custody. He had been sent to us from Ireland. I told the accused that I was a police inspector and he was being detained pending further charges.

**BODKIN:** What did he say?

**SANDERCOCK:** He asked me if I knew who he was, and I said that I did because he was rather well known in Britain.

**BODKIN:** What did he say?

**SANDERCOCK:** He said, "Then you know that I am Sir Roger Casement, and that you are the first person I have told my true identity."

**BODKIN:** Then what did he say?

**SANDERCOCK:** He was about to make a statement when I cautioned him and told him that anything he said would be taken down and used in evidence for or against him in a future trial. I informed him that he would be seen by responsible officials later in the day, to which he replied that he had nothing further to say.

**BODKIN:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** No questions, your honor.

**JUSTICE AVORY:** The prosecution may call their next witness.

**SMITH:** The prosecution calls Mr. Sydney Waghorn.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

**SYDNEY WAGHORN:** I do.

**SMITH:** Mr. Waghorn, can you tell the court about the sinking of the *Aud*?

**WAGHORN:** I was the leading seaman on H.M.S. *Bluebell*. On April 21, I remember seeing an unidentified ship off our port bow. We were about ninety miles off the southwest coast of Ireland. This other ship was about fifteen miles from us when I sighted her. When we got nearer, I noticed that she was flying Norwegian flags. I was ordered to signal her, asking for her name and where she was bound. She replied that she was the *Aud* and was bound for Genoa, Italy. I signaled that we intended to escort her to Queenstown and that she needed to follow us. At first, she hesitated but we fired a shot across her bow and then she obeyed. When we got near Queenstown, something happened and the *Aud* stopped her engines and I noticed white smoke pouring from her starboard side. She then showed two German ensigns at the masthead. Then she lowered two lifeboats and the crew piled into them and began rowing towards the *Bluebell*. The boats then put up a flag of truce and the men in the boats put up their hands and were taken onboard the *Bluebell*. Twenty-three Germans—seamen and officers—surrendered to us. They were placed under arrest. By this time, the *Aud* had sunk. All this happened in about ten minutes. She sank about a mile from the Irish coast.

**SMITH:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** No questions your honor.

**KING'S CORONER:** The witness may step down.

**JUSTICE AVORY:** Prosecution may call their next witness.

**HUMPHREYS:** The prosecution calls Mr. John Dempsey.

**KING'S CORONER:** Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?



**JOHN DEMPSEY:** I do.

**HUMPHREYS:** Mr. Dempsey, can you tell the court about what you found in the sunken ship *Aud*?

**DEMPSEY:** I am a diver and I was employed by the admiralty to make a dive to the wreck of the *Aud*. I was lowered down to the wreck of the ship, and when I reached the wreck, I noticed that she had a Norwegian flag painted on the hull. I found a hole on her starboard quarter. On the bottom of the sea near the hull, I saw a lot of rifles and ammunition. I brought up one of the rifles and a cartridge clip. I noticed there were thousands of other cartridge clips on the seabed near the hull. Then the weather got rough and I had to surface.

**HUMPHREYS:** Do you know what kind of rifle you retrieved from the wreck?

**DEMPSEY:** It was a Russian army service-rifle. It had a serial number and the year 1905. I believe the cartridge clip was also Russian.

**HUMPHREYS:** No further questions.

**JUSTICE AVORY:** Does the defense wish to question this witness?

**SULLIVAN:** No questions your honor.

**KING'S CORONER:** Witness may step down.

**JUSTICE AVORY:** Does the prosecution wish to present any more witnesses?

**SMITH:** No, your honor. The prosecution rests pending final remarks.

**JUSTICE AVORY:** Does the defense wish to present any witnesses?

**SULLIVAN:** No, your honor. The defense rests pending closing remarks.

**KING'S CORONER:** The court will stand in recess until tomorrow morning.

#### Scene Four: Jury Verdict, Sentence, and Final Statement from Roger Casement

**NARRATOR:** The courtroom is packed with spectators awaiting the final arguments.

**JUSTICE AVORY:** The defense may now make any closing remarks.

**SULLIVAN:** (*Rising and facing the jury*) Gentlemen, the defense does not contest that Sir Roger Casement went to the German prisoner-of-war camp in Limburg. He appealed to Irishmen to join an Irish Brigade. Did any human being ever hear him ask an Irishman to fight for Germany? Not one. You have heard witnesses testify about Sir Roger Casement encouraging Irishmen to join a separate brigade, but none of his speeches ever asked an Irishman to fight against England. He spoke in the context of the war being over soon and said that the men who enlisted with him would be landed in Ireland to fight for Ireland—to fight for Irish independence. He repeatedly told them that if they were Irishmen, then they should join the Irish Brigade, and when the war was over, they would be landed in Ireland in order to serve their true country. If the object was to have skilled men in arms in Ireland at the close of the war, for the purpose of protecting the rights of the people of Ireland against unlawful tyranny, no matter in whose name it was sought, that is not treason. It may be some offense in Ireland, but that is not within the jurisdiction of this court. Germany did not get one atom of assistance in the war from any human being as a result of Sir Roger Casement's intervention. No man fired a shot for Germany. Of the fifty-two men who were recruited, not one ever appeared in the German ranks or in the command of any German officer. What aid or assistance is he alleged to have given? In fact, the only result was that fifty-two unfortunate prisoners of war received better clothing, food, and treatment at the expense

of the Germans. No man was ever threatened with a reduction of rations if he did not do what Sir Roger Casement asked him to do. Those who joined were liberated from the camp, they were better clothed, and I have no doubt they were better fed than the ordinary prisoner. No man has testified in this court to any whisper of a threat from any human being that his rations would be reduced if he did not comply with the requests of Sir Roger Casement. Now I will turn to the accusations about what happened in Ireland itself. I wish you to understand, there is not, in this case, any allegation against Sir Roger Casement of the commission of any illegality in that part of His Majesty's United Kingdom called Ireland. He was charged with breach of the regulations made under the Defense of the Realm Act and nothing more. He landed in Ireland with three pistols and a box of ammunition. That represents, as far as we have heard, a charge formulating the highwater mark of his Irish illegality. You cannot consider anything connected with his arrival or movements in Ireland as relevant, unless they are in some way connected to what he has allegedly done in Germany. It is solely on the evidence submitted regarding his activities in Germany that this case must stand or fall. Testimony was given about the sinking of a ship with a cargo of weapons and ammunition that was allegedly part of some plot on the part of Sir Roger Casement. How that ship and its supply of Russian rifles and ammunition can be brought into the story of this case, frankly, I have no idea. Gentlemen of the jury, in Ireland you have not only a separate people—you have a separate country. An Irishman's loyalty is loyalty to Ireland—and it would be a very sorry day for the British Empire when loyalty to one's own native land should be deemed to be treason in a sister country. No English official exercises the smallest authority when he crosses the channel. His Majesty, under the Act of Union, in fact, only appoints his Irish officers under the great seal of Ireland. His Majesty rules there, not by any title of king of Ireland, but in respect of his title as king and ruler of the United Kingdom. However, as much as Germany might have liked to see, after the war, or at any other time, a precipitation of a state of affairs in which there should be armed camps in any part of His Majesty's dominions, that was not the view put forward by Sir Roger Casement to the Irish Brigade. It was not to please Germany that he sought to recruit. He purported to recruit them in order to serve their own country. Is there any other way in which he could fulfil his pledge? Where else could he use them in connection with the Irish Volunteer movement or in connection with any home rule controversy? Where else could he use them for, whatever you call it, the freedom of Ireland or freeing Ireland? In Ireland alone, they were to fight—under Irish officers, they were to fight.

Gentlemen of the jury, let me bring you to the crucial question you have to determine when you retire to consider your verdict. Sir Roger Casement is charged with committing high treason by adhering to the king's enemies in Germany, giving aid and comfort to the king's enemies. Gentlemen, you are dealing with the language of a statute passed almost six hundred years ago, and the meaning of the words "aid and comfort" at that time was something rather different than how these words are used today. Aiding and comforting the enemy meant supplying them with information or with forces or with material for the purpose of levying war against the king, and you have to be satisfied in your own mind that Sir Roger Casement's intention when he was in Germany was to use the Irish Brigade for the purpose of fighting for Ireland. We humbly ask you to put aside any prejudices you might have against this Irish man and find him not guilty.

**JUSTICE AVORY:** The prosecution may now make any closing remarks.

**SMITH:** (*Rising and facing the jury*) May it please your lordships, gentlemen of the jury, I recognize and accept that it is the duty of the Crown to prove to you, beyond a reasonable doubt, that the prisoner at the bar—Sir Roger Casement—is guilty of the charge of treason. You have heard

the counsel for the prisoner speak in his defense, and you have heard the testimony of the witnesses called by the Crown, and the questions put to them by both the prosecution and the defense. Now is the time for you to decide. The case that is presented to you by the Crown is this short one: The prisoner, a man who, as you well know, was long in the service of this country and well-understood public affairs, on the outbreak of war, the greatest struggle in which the country to which he had so long belonged had ever been engaged, went to the country of our principal enemy—Germany—and found captured soldiers of His Majesty the king, and set himself to seduce those men from their allegiance with the object of using them, in violation of their military duty and at the risk of their lives, in an enterprise which might injure the country to which they owed their allegiance. The defense would have you believe that they were not to be used to assist Germany in any way, but they were only to be used at the conclusion of the war for matters concerned with the internal politics of Ireland. We reject that proposition, and so should you.

Why did the prisoner ever go to Germany at all? What was the nature of the arrangement and of the assurance that was given to him before he went to Germany? How is it that, when his country was at war with Germany, when these Irish soldiers on the field of battle had just been made prisoners by the German army, we find him a free man in Germany, moving without restriction for months in whatsoever part of Germany those Irish soldiers were confined, able, without control or interference, to go amongst them and attempt to seduce them? Gentlemen, what were his true motives? The defense would have you believe that he went there to make sure there would be some men who would be strong enough to balance the Volunteers in the north of Ireland after the war. Do you not think that if that really was his object, he might possibly have stayed in Ireland where he would still have been in the king's dominions? Why go to Germany? Why go and corrupt other men to violate their duty? Now, gentlemen, turning to the prisoner's mysterious arrival in Ireland—armed and carrying a codebook that clearly indicated his intentions to coordinate further shipments of arms, ammunition, and possibly soldiers into Ireland. He leaves Germany, in the middle of this war, with a code which he and the Germans, acting in concert, have carefully prepared, by which they can send secret messages to plan hostile landings—and the defense would have you believe fairy tales about what is going to be done after the war with Irish Volunteers. Finally, gentlemen of the jury, high treason is an offense committed against the duties of allegiance to the sovereign. It is founded on the relation of the person to the Crown, and on the privileges he derives from that relation. The statute under which the prisoner is charged is precise, and I want to tell you the meaning that we attribute to those words so that you may address your mind to it. Giving "aid and comfort" to the king's enemies means assisting the king's enemies in wars with this country, and any act which strengthens or tends to strengthen the enemy in the conduct of the war against us would be giving "aid and comfort" to the king's enemies, and any act which weakens or attempts to weaken the power of the country to resist or to attack the enemy is giving aid and comfort to the king's enemies. That is the law. The prisoner at the bar broke that law, and it is your duty—your sacred obligation—to find him guilty.

**NARRATOR:** The jury returned from their deliberation at 3:30 in the afternoon.

**KING'S CORONER:** (*Turning to the jury*) Are you agreed upon your verdict?

**FOREMAN OF THE JURY:** We are.

**KING'S CORONER:** How say you? Do you find the prisoner, Sir Roger David Casement, guilty or not guilty of the high treason whereof he stands indicted?

**FOREMAN OF THE JURY:** Guilty.

**KING'S CORONER:** You find Sir Roger Casement guilty of high treason. Is that the verdict of you all?

**FOREMAN OF THE JURY:** Yes.

**JUSTICE AVORY:** Sir Roger David Casement, you stand convicted of high treason. What have you to say for yourself? Why should the court not pass sentence and judgment upon you to die according to the law?

**SIR ROGER CASEMENT:** My Lord Chief Justice, there is an objection, possibly not good in law, but surely good on moral grounds, against the application to me here of this old English statute, 565 years old, that seeks to deprive an Irishman of life and honor, not for adhering to the king's enemies, but for adhering to his own people. I am being tried, in truth, not by my peers of the present, but by peers of the dead past—not by the civilization of the twentieth century, but by the brutality of the fourteenth. Edward III was king, not only of the realm of England but also of the realm of France—but he was not king of Ireland. Yet his dead hand today may pull the noose around the Irishman's neck whose sovereign he was not. With all respect, I assert this court is to me, an Irishman, not a jury of my peers. This court—this jury—the public opinion of this country—England—cannot but be prejudiced against me, an Irishman—most of all in time of war. I did not land in England, I landed in Ireland. For the attorney-general, there is no Ireland—there is only the law of England. If I did wrong in making an appeal to Irishmen to join with me in an effort to fight for Ireland, it is by Irishmen, and by them alone, I can be rightfully judged. I assert from this dock that I am being tried here, not because it is just, but because it is unjust. Place me before a jury of my own countrymen—be they Protestant or Catholic—and I shall accept the verdict and bow to the statute and its penalties. I would add that the generous expressions of sympathy extended to me from many quarters, particularly from America, have touched me very much. In that country, as in my own, I am sure my motives are understood and not misjudged because the achievement of their liberties has been an abiding inspiration to Irishmen and to men elsewhere rightly struggling to be free. Gentlemen of the jury, I hope you will not take offense when I spoke of not being tried by a jury of my peers—but I would put it to you: How would you all feel if an Englishman, accused of high treason, had been taken to be tried before a tribunal in Ireland, when his only crime had been that he cared for England more than Ireland? My lord, I have done. Do with me as you will.

**KING'S CORONER:** Oyez. My lords, the king's justices do strictly charge and command all manner of persons to keep silent whilst sentence of death is passing upon the prisoner at the bar, upon punishment of imprisonment.

**JUSTICE AVORY:** Sir Roger David Casement, you have been found guilty of treason, the gravest crime known to the law, and upon evidence which in our opinion is conclusive of guilt. Your crime was that of assisting the king's enemies, that is the Empire of Germany, during the terrible war in which we are engaged. The duty now devolves upon me of passing sentence upon you, and it is that you be taken hence to a lawful prison, and thence to a place of execution, and that you be there hanged by the neck until you be dead. And the sheriffs of the counties of London and Middlesex are, and each of them is, hereby charged with the execution of this judgment, and may the Lord have mercy on your soul.

# Documentary Evidence

## Document A

### Address to the Irish soldiers in Limburg prisoner-of-war camp

Irishmen, here is a chance for you to fight for Ireland.

You have fought for England, your country's hereditary enemy. You have fought for Belgium in England's interest, though it was no more to you than the Fiji Islands. Are you willing to fight for your own country with a view to securing the national freedom of Ireland? With the moral and material assistance of the German Government an Irish Brigade is being formed. The object of the Irish Brigade shall be to fight solely the cause of Ireland, and under no circumstances shall it be directed to any German end. The Irish Brigade shall be formed, and shall fight under the Irish flag alone; the men shall wear a special distinctively Irish uniform and have Irish officers. The Irish Brigade shall be clothed, fed, and efficiently equipped with arms and ammunition by the German Government. It will be stationed near Berlin, and be treated as guests of the German Government. At the end of the war the German Government undertakes to send each member of the brigade who may so desire it to the United States of America with necessary means to land. The Irishmen in America are collecting money for the brigade. Those men who do not join the Irish Brigade will be removed from Limburg and distributed among other camps. If interested, see your company commanders.

Join the Irish Brigade and win Ireland's independence! Remember Bachelor's Walk! God save Ireland!

## Document B

### Statement issued by the British Government on August 4th, 1916, after Casement's execution

All the circumstances in the case of Roger Casement were carefully and repeatedly considered by the Government before the decision was reached not to interfere with the sentence of the law. He was convicted and punished for treachery of the worst kind to the Empire he had served, and as a willing agent of Germany.

The Irish rebellion resulted in much loss of life, both among soldiers and civilians. Casement invoked and organised German assistance to the insurrection. In addition, though himself for many years a British official, he undertook the task of trying to induce soldiers of the British Army, prisoners in the hands of Germany, to forswear their oath of allegiance and join their country's enemies. Conclusive evidence has come into the hands of the Government since the trial that he had entered into an agreement with the German Government, which explicitly provided that the Brigade which he was trying to raise from among the Irish soldier prisoners might be employed in Egypt against the British Crown. Those among the Irish soldier prisoners in Germany who resisted Casement's solicitations of disloyalty were subjected to treatment of exceptional severity by the Germans; some of them have since been exchanged as invalids, and have died in this country, regarding Casement as their murderer.



The suggestion that Casement left Germany for the purpose of trying to stop the Irish rising was not raised at the trial, and is conclusively disproved, not only by the facts there disclosed, but by further evidence which has since become available.

Another suggestion, that Casement was out of his mind, is equally without foundation. Materials bearing on his mental condition were placed at the disposal of his counsel, who did not raise the plea of insanity. Casement's demeanour since his arrest, and throughout and since the trial, gave no ground for any such defence, and indeed was sufficient to disprove it.

On 30th June it was announced that the King had been pleased to direct the issue of Letters Patent under the Great Seal of the United Kingdom degrading Sir Roger Casement, C.M.G., from the degree of Knight Bachelor.

The announcement was also made on the same date that the King has been pleased to direct that Sir Roger Casement, Knight, shall cease to be a member of the most Distinguished Order of Saint Michael and Saint George, of which Order he was appointed a Companion in 1905, and that his name shall be erased from the Register of the Order.

**Source:** Knott, George H., ed. *Trial of Sir Roger Casement*. Philadelphia: Cromarty Law Book, 1917.



# Time Line

<b>1913</b>	Sir Roger Casement resigns from Foreign Service.
<b>1914</b>	World War I begins.
<b>1915</b>	Roger Casement tries to form the Irish Brigade in Limburg Camp.
<b>1916</b>	Easter Rising. Casement and fifteen other Irish nationalists are executed.
<b>1918</b>	World War I ends.

# Glossary

**British army:** Soldiers under the command of Great Britain. In 1916, during World War I, there were about two thousand soldiers stationed in Ireland, mostly in the area of Dublin.

**Defense of the Realm Act 1914:** A law passed by the British Parliament soon after the start of World War I that gave the government the power to enforce regulations covering a wide range of civil liberties, including freedom of speech, print, assembly, and essentially anything else deemed harmful to the war effort.

**Irish Volunteers:** A military organization established by Irish nationalists dedicated to ensuring that the British government granted home rule to Ireland. In 1916, there were about ten thousand active members, and many were armed.

**King's coroner:** A court officer who exercised several functions during the trial, including reading the indictment, taking the prisoner's plea, and carrying out any other orders delivered by the presiding judges.

**Oyez:** The opening word spoken in every British criminal trial. It is a Norman-French word meaning "hear ye."

**Royal Irish Constabulary:** A uniformed police force that covered most of Ireland.

**Treason Act of 1351:** A law passed by the English Parliament under the reign of Edward III that defined treason. In 1495, it was extended to Ireland. Provisions that defined high treason included imagining the death of the king, levying war against the king in his realm, and adhering to the king's enemies.

**Ulster Volunteers:** A unionist militia formed by Sir Edward Carson to resist home rule.

# Postscript

At Casement's three-day trial, the prosecution had little trouble proving that he had indeed gone to Germany to recruit prisoners of war for his Irish Brigade, and that he had been smuggled back to Ireland to take part in an insurrection. The problem was that Casement's most damning crimes had been carried out in Germany, and the Treason Act of 1351 seemed to only legally apply to activities carried out on British soil. Although he had been captured in Ireland under suspicious circumstances, he had not actually performed any overt act of treason. However, the court believed that a close reading of the Treason Act permitted a broader interpretation. The judge determined that a comma should be included in the original, unpunctuated Norman-French text. This punctuation crucially altered the meaning so that "in the realm or elsewhere" referred to where acts were actually performed—not just where the "king's enemies" may truly be located.

Roger Casement was convicted of treason against the Crown on June 29, 1916. He was stripped of his title and sentenced to be hanged by the neck until dead. On July 23, his appeal was rejected by a British high court. Famous literary figures and sympathetic Irishmen worldwide pleaded for clemency. The earlier executions by firing squad of the other leaders of the Easter Rising had caused a storm of protest in America. Under pressure from Irish Americans, the U.S. Senate passed a resolution on July 29, clearly targeted at saving Roger Casement, urging "clemency in the treatment of Irish political prisoners."<sup>1</sup> Their pleas fell on unsympathetic ears, exacerbated by the startling revelations found in Casement's own journals, commonly called the Black Diaries. Many entries contained vivid accounts of homosexual behavior. In 1916, such conduct was not only criminal, it was regarded by nearly everyone as immoral and dishonorable. His fate was sealed.

Roger Casement was the last of the Irish leaders to pay with his life for involvement in the Easter Rising. Born and raised a Protestant, he decided to convert to Catholicism in the last days before facing the hangman. He spoke about his pending death and was looking forward to his final confession. He also felt that he should never have trusted the Germans, saying, "Why did I ever trust in such a Government as this [Imperial Germany]—they have no sense of honor, chivalry, generosity. . . . They are Cads. . . . That is why they are hated by the world and England will surely beat them."<sup>2</sup> The Catholic priest who ministered to him in prison mused, "It was like the last hours of some glorious martyr."<sup>3</sup> By all accounts, he died a brave man. He even quipped before death that he was to be the only man to be "hanged on a comma." The British hangman, John Ellis, later said that Casement was "the bravest man it ever fell to my unhappy lot to execute."<sup>4</sup>

Roger Casement's remains were eventually returned to his beloved Ireland. He was re-interred in Glasnevin Cemetery on March 1, 1965, after a state funeral. The so-called Black Diaries, which arguably played a critical role in the rejection of his appeal and his eventual execution, were viewed by most Irish nationalists as forgeries, fabricated to smear his reputation. However, a forensic analysis in 2002 determined that they were genuine.

1 Tobin, 140.

2 Charles Townshend, *Easter 1916: The Irish Rebellion* (Chicago: Ivan R. Dee, 2006), 106.

3 McGarry, 273.

4 Tobin, 141.

# Discussion Questions

1. Sir Roger Casement was tried for treason under the Treason Act that was passed hundreds of years earlier in 1351, under the reign of Edward III. Do you think it was fair to apply such an old law to a relatively modern case? Discuss.
2. Sir Roger Casement said in his closing remarks that he only desired to be placed before a jury of his own countrymen, be they Protestant or Catholic, and he would accept the verdict and bow to the statute and its penalties. Would the outcome of the trial have been different had his wish been granted? Under the circumstances, do you think that he got a fair trial? Discuss.
3. The defense attempted to convince the judges that at the time the Treason Act was passed in 1351, no actual English court existed for trying a treasonous offense of adhering to the king's enemies in the realm of another prince—in other words, in another country. Therefore, they reasoned it would be absurd to hold Casement guilty of treason since his alleged treasonous actions never took place in Britain. Do you think that Casement deserved to be acquitted on this technicality? Discuss. Can you think of any other famous criminal case in which the defendant was either convicted or acquitted on a legal technicality?
4. Defense attorney T. Artemus Jones said in one of his arguments, "One eminent judge once observed that a thing most notorious outside a Court of law was the thing most difficult to prove inside a Court of law." Do you agree? What parts of this case buttress that statement? Discuss.
5. George Bernard Shaw said, "I remain an Irishman; and I am bound to contradict any implication that I can regard as a traitor any Irishman taken in a fight for Irish independence against the British government." Do you agree with Shaw's position? Discuss.
6. The discovery, revealed in Roger Casement's diaries, that he was gay clearly undermined any possibility of clemency. Can you think of any other trials whose outcome was undoubtedly prejudiced by the defendant's race, religion, or sexual orientation?
7. Sherlock Holmes said to his colleague Dr. Watson, "You see, but you do not perceive." Do you think that, although Sir Roger Casement was Irish, he did not perceive the fact that, as one historian noted, "the Irish soldier has a sense of honor and loyalty that is innate and must be reckoned with, he will not transfer his allegiance merely to better his condition, or to escape from German imprisonment in Germany."? He seemed to believe that most recruits had enlisted to escape poverty and unemployment, and that they were mostly all Irish nationalists who were not proud to be fighting England's battles. Discuss.
8. Sir Roger Casement (who was hanged) and the fifteen others that the British shot in conjunction with the Easter Rising went, by all accounts, cheerfully to their deaths, believing that their lives were a worthy sacrifice for eventually achieving Irish independence. The British government, on the other hand, saw them as terrorists who had initiated widespread violence in Ireland, causing the death of dozens of British soldiers and hundreds of civilians, and undermining the efforts of the United Kingdom in its life and death struggle with Germany. Who was right? Discuss.

9. Read Document B. Why do you think the British government felt obligated to publish an official summary of the Roger Casement case? How do you think it was received by the British public? How do you think the Irish public received this summary?
10. Some of the leaders of the Easter Rising seemed to welcome execution, but others believed that the Great War was nearly over and they wished to be around to have a place at the peace table—to argue for Irish independence. However, Sir Roger Casement's lost arms-shipment and alleged German involvement ended that hope. The British government's response was to invoke and apply criminal proceedings. Obtaining belligerent status is the most difficult aspiration of every revolutionary movement, and for Sir Roger Casement and the other leaders of the Easter Rising it proved impossible. Had the British recognized this rising as a legitimate "war," would Casement and the other leaders have still been tried and executed? Note that during the American Civil War, the leaders of that rebellion—Jefferson Davis and Robert E. Lee—were never tried or executed. Discuss.

# Extension Activities

1. Sir Roger Casement was not the only man placed on trial and executed for involvement in the Easter Rising of 1916. Fifteen others received brief trials and summary executions, including James Connolly, Joseph Plunkett, and Michael Mallin. Research the life of one of these men and either write an essay or make a class presentation about their role in the Irish quest for home rule and independence.
2. In 1859, John Brown launched what most historians conclude was a hopelessly inept attempt to free the enslaved people of the American South by attacking the Federal Armory at Harper's Ferry. He was tried and executed for treason by the State of Virginia but became a martyr to the cause of freedom. In 1916, Irish leaders, including Sir Roger Casement, arguably plotted a similarly hopeless revolt—a failed attempt that cost Casement his life. Many of the potential Irish Volunteers were so poorly armed that they were issued pikes (spears)—a weapon that Brown too had given to the few slaves who had rallied to his cause. Write an essay or make a class presentation that compares John Brown's poorly designed and hopeless attempt to free the enslaved people of America in 1859 with Sir Roger Casement's equally desperate and inept rising in 1916. How were they similar and how were they different?
3. Research the Easter Rising and either make a presentation or write an essay about the planners' attitudes, intentions, and aspirations. Clearly, without sufficient weapons, there was little chance for success. Was the rising expected to end British rule or was it merely meant to be a violent protest?
4. Songs have often been associated with rebellions. Before and during the Easter Rising, the Irish sang tunes like this:

*We've got the guns and ammunition  
We know how to use them well,  
And when we meet the Saxon  
We'll drive them all to hell.  
We've got to free our country  
And to avenge all those who fell,  
And our cause is marching on.  
Glory, glory to old Ireland,  
Glory, glory to our sireland,  
Glory to the memory,  
Of those who fought and fell,  
And we still keep marching on.<sup>1</sup>*

<sup>1</sup> Tobin, 141.

Research the role of music during the Irish independence movement. You might even compare it to the role of music during the American Revolution or the American civil rights movement.

5. The year 1916 witnessed two events that would profoundly shape Ireland until contemporary times: one was the Easter Rising and the other was the Battle of the Somme. Both events have been commemorated, mythologized, and revisited throughout the twentieth and twenty-first centuries. Write an essay or create a class presentation that uses these two events to explore the question about the relationship between history, commemoration, and memory.



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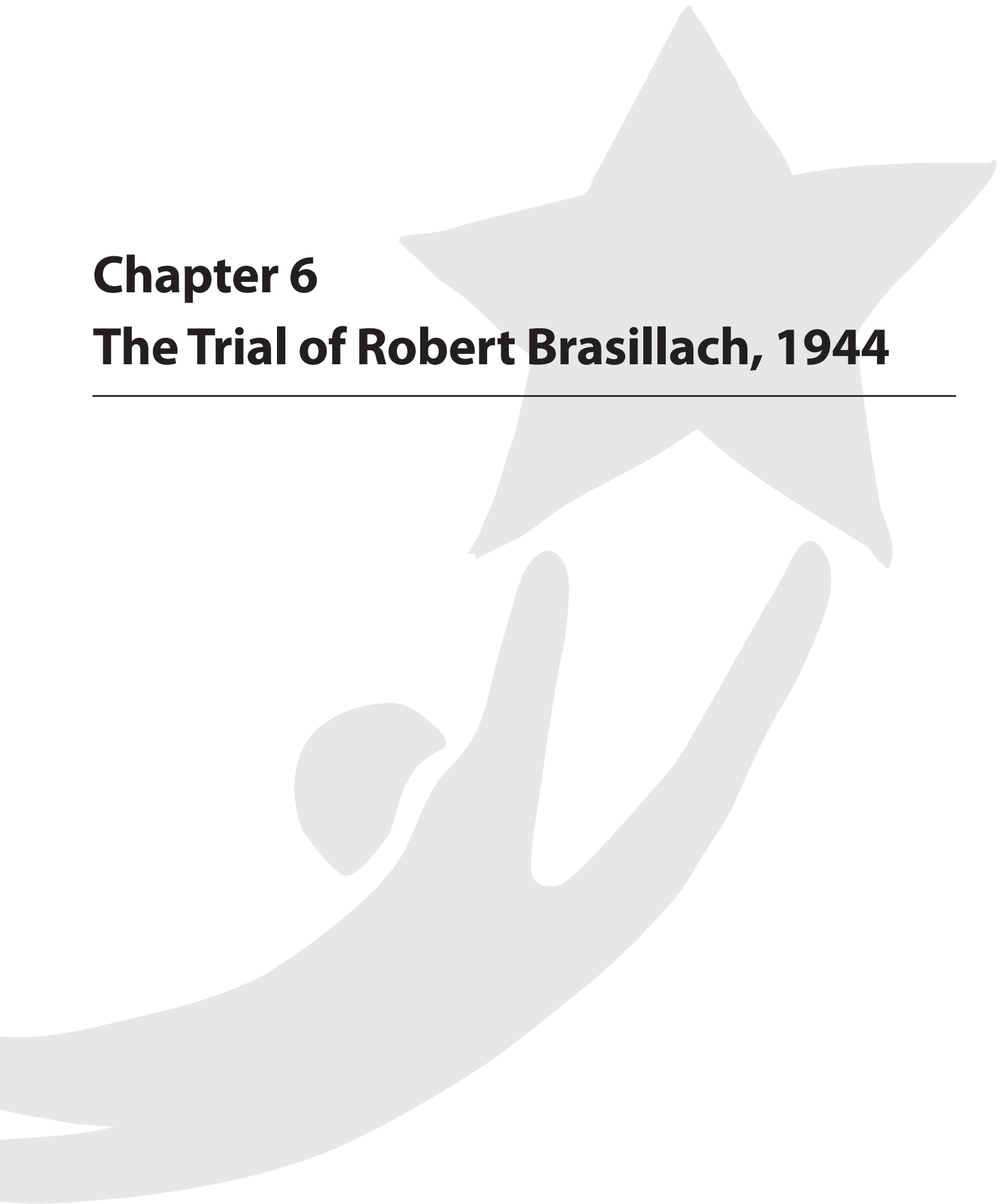
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## **Chapter 6**

# **The Trial of Robert Brasillach, 1944**

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## ● Introduction ●

On February 6, 1945, Robert Brasillach, one of France's best-known literary figures, was shot for treason. He was also an avowed anti-Semite, a promoter of French National Socialism, and the editor-in-chief of the pro-Fascist newspaper *Je Suis Partout* (I am everywhere)—a weekly paper that regularly produced pro-German articles and editorials before and during the German occupation of France during World War II.

### **Objectives**

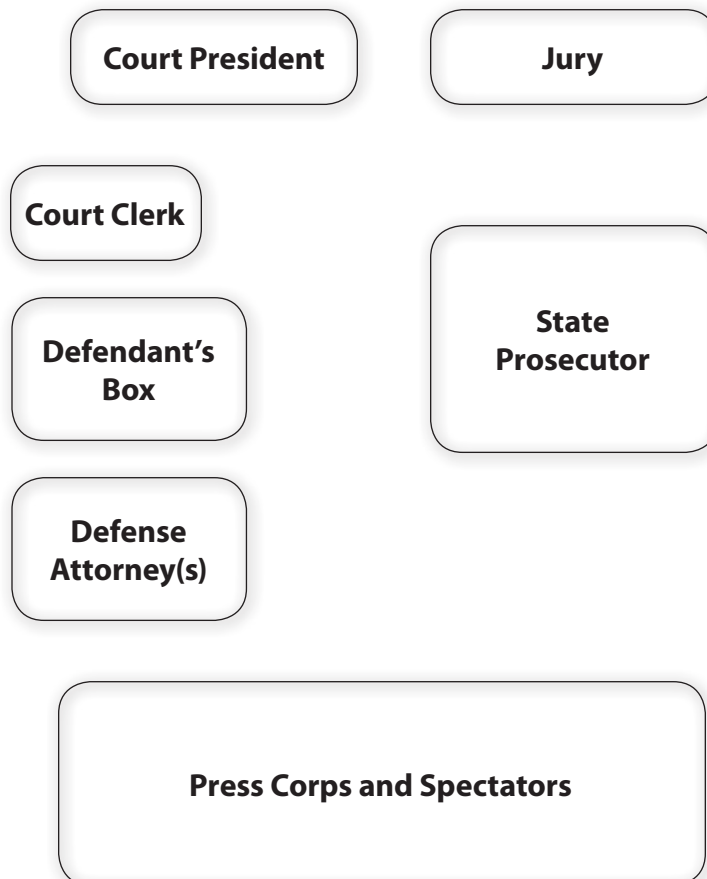
1. Students will understand the difficult decisions facing French citizens during the German occupation.
2. Students will appreciate why the French were so determined to bring to justice all those suspected of collaborating with the Germans.
3. Students will debate the problem of holding individuals responsible for actions that arise from the exercising of free speech.

## Lesson Plan

### Trial Procedure

1. Indictment read by the court clerk.
2. The *interrogation*, in which the court president and the members of the jury question the defendant.
3. The *réquisition*, in which the state prosecutor delivers a formal speech against the defendant.
4. The *plaidoirie*, in which the defense attorney delivers a formal speech for the defendant.
5. The court president gives the defendant the chance to make any final comments.
6. The members of the jury and the court president leave the courtroom to deliberate the verdict. Note that the decision on guilt does not have to be unanimous.
7. The court reassembles, and the court president delivers the verdict.

### Diagram of Courtroom Seating



## **Suggested Schedule (role play)**

**Day One:** Read and discuss the Background Essay, assign roles, and begin initial preparation.

**Day Two:** Preparation.

**Day Three:** Trial.

**Day Four:** Debrief using Discussion Questions.

**Day Five:** Extension Activities.

## **Notes for the Teacher (role play)**

1. A trial by the French Court of Justice resembled a criminal trial with just one exception: The number of jurors was reduced from nine to four. However, for the purpose of this simulation, you may decide to have a jury of nine or more. Otherwise, there is a state prosecutor, a defense attorney, a court clerk, and a court president who served as the judge.
2. It is recommended that the teacher assumes the role of the court president or is available to assist the student who takes that role.
3. Both the prosecution and the defense could have called witnesses. However, in this case, both the state prosecutor and the defense attorney did not see any advantage either way, so they mutually agreed not to present any.
4. Prior to students coming to class, set up the classroom to look like a courtroom (see Diagram).
5. In the scripted version of the trial, there is dialogue related to the deliberation by the jury. We do not know what actually transpired in the deliberation room, but given that it lasted only twenty minutes, there is a re-creation of what might have happened.
6. If you have a large class, you may include some famous French literary figures as spectators, with the expectation they will write a commentary on the proceedings. There are also roles associated with French newspaper reporters that may be included, to report on the facts of the trial and/or write an editorial.
7. There is no record of an assistant state prosecutor, so a fictional personality is included to assist the student assuming the role of state prosecutor.
8. There is a popular misconception that under French law, the accused is presumed guilty until proven innocent. However, article 9 of the Declaration of the Rights of Man and of the Citizen, of 1789 (which has authority as constitutional law) says "any man being presumed innocent

### **Teaching Tip**

If you have a very large class, you may want to increase the number of jurors.



### **Teaching Tip**

Secretly prime one of the literary figures, at one point during the trial, to rise and shout, "Brasillach is no traitor, he is a great writer!"





until he has been declared guilty. . . ." The codes that deal with criminal law are the *Code Pénal* and the *Code de Procédure Pénale*. Under the French criminal law system, cases are heard by a variety of courts, depending on the severity of the offense. A *tribunal correctionnel* deals with serious crimes and a *cour d'assises* hears major offenses like murder or treason. France only uses a jury in the *cour d'assises*, with nine ordinary citizens making up a *jury populaire*. In Brasillach's case, as noted earlier, the jury number was reduced to four.

### Suggested Schedule (scripted version)

**Day One:** Read and discuss the Background Essay, assign speaking parts, and begin reading of the trial.

**Day Two:** Conclude reading of the trial, debrief using Discussion Questions, and assign Extension Activities.

### Notes for the Teacher (scripted version)

1. Read and discuss the Background Essay.
2. Assign students speaking roles in the play.
3. Prior to students coming to class, you may decide to set up the classroom to look like a courtroom. It adds more realism to the drama.
4. Read the play.
5. Debrief using the Discussion Questions.
6. Assign Extension Activities.

## Roles Grid

Role	Historical Character	Student Name
<b>President of the Court</b>	Maurice Vidal	
<b>Court Clerk</b>		
<b>Defendant</b>	Robert Brasillach	
<b>State Prosecutor</b>	Marcel Reboul	
<b>Assistant State Prosecutor*</b>		
<b>Defense Attorney</b>	Jacques Isorni	
<b>Assistant Defense Attorney</b>	Mireille Noël	
<b>Jury</b>	Lucien Albert Grisonnet	
	André Raymond Victor Van der Beken	
	Emile Jean-Marcel Riou	
	René Emile Desvillettes	
<b>Narrator</b> (scripted version)		
Possible Additional Roles		
<b>Assistant Defense Attorneys</b>	M. Hubert	
	Mlle Frère	
	M. Amiel	
<b>Newspaper Reporter—<i>Le Figaro</i></b>		
<b>Newspaper Reporter—<i>Le Monde</i></b>		
<b>Newspaper Reporter—<i>Le Parisien</i></b>		
<b>Author/Spectator</b>	Jean-Paul Sartre	
<b>Author/Spectator</b>	Albert Camus	
<b>Author/Spectator</b>	Simone de Beauvoir	
<b>Juror Five</b>		
<b>Juror Six</b>		
<b>Juror Seven</b>		
<b>Juror Eight</b>		
<b>Juror Nine</b>		

\*Fictional role

# Background Essay



Robert Brasillach

During World War II, France was defeated by the Germans early in 1940 and was divided into two zones. Northern France, including the capital city of Paris, was occupied and administered by the Germans. Southern France remained independent under a

government headed by Marshal Petain, who had accepted French defeat and agreed to form a new government. He also agreed to cooperate with the Nazi invaders. The new French administration was referred to as the "Vichy government."<sup>1</sup> This government reflected a time of uneasy politics marked by the administration's collaboration with Nazi Germany and the opposition to the Nazis led by the *Resistance*. The people of occupied France not only had to deal with the suspicious Germans, including the notorious Gestapo, but also leaders of their own government who used telephone wire-taps, postal interceptions, and police informers to watch over and regulate their own citizens and foreigners. French jails became filled with convicted or suspected supporters of General Charles de Gaulle, who led a government in exile in England, and French communist agitators. Worker strikes and public demonstrations were banned, and there was careful surveillance of domestic and international travel.<sup>2</sup>

For the people of France, whether they lived in the occupied or unoccupied zones, there were daily decisions to be made about how to behave among the Germans and, more risky, whether they should become part of the *Resistance*.<sup>3</sup>

Robert Brasillach was a graduate of the *Ecole Normale Supérieure* in Paris, France's most prestigious school for students of literature, and was one of the country's most gifted young writers. His early politics were associated with the *Action Française*, a marginal political party that advocated a befuddled mixture of Catholicism, anti-Semitic nationalism, royalism, and xenophobia. However, beginning in 1932, shortly before Adolf Hitler became chancellor of Germany, Brasillach abandoned *Action Française* and placed his writing talents at the disposal of the pro-Fascist weekly newspaper *Je Suis Partout*.<sup>4</sup> In 1937 he became the editor-in-chief of *Je Suis Partout* and one of the most influential spokespersons for French fascism.

Early in 1940, with the German's poised to invade France, Robert Brasillach was drafted into the French army. He was given the rank of lieutenant and was posted to a military headquarters near the border between France and Belgium. When the *Wehrmacht*, the German army, invaded France, he was taken prisoner and confined in Germany in a prisoner-of-war camp, where he viewed himself as a dedicated Frenchman who had dutifully defended his country.<sup>5</sup> In March 1941 he penned a paper from the POW camp, expressing his view that the weak socialist leaders of France and the Jews were responsible for his country's defeat. He celebrated newly elected President Petain's cooperation with

<sup>3</sup> Alice Kaplan, *The Collaborator: The Trial and Execution of Robert Brasillach* (Chicago: University of Chicago Press, 2000), 28.

<sup>4</sup> Kaplan, 11.

<sup>5</sup> Frederic Spotts, *The Shameful Peace: How French Artists and Intellectuals Survived the Nazi Occupation* (New Haven, CT: Yale University Press, 2008), 9.

<sup>1</sup> It was given this label because Vichy, a spa city about 150 miles south of Paris, was selected as its capital.

<sup>2</sup> John F. Sweets, *Choices in Vichy France: The French under Nazi Occupation* (New York: Oxford University Press, 1986), 100–102.

Hitler and advocated for anti-Jewish legislation. A month later, he was released from the POW camp, supposedly at the behest of the French government so that he could become the commissioner of French cinema, a post he would never assume.<sup>6</sup> Instead, he returned to his job at *Je Suis Partout* and served on the board of directors of *Rive-Gauche*, one of the most prominent bookstores in Paris.<sup>7</sup> In October 1941, as German bombers were wreaking havoc over Britain, he traveled back to Germany with six other French writers, allegedly to attend a literary conference organized by Karl Heinz Bremer, the director of the German Institute in Paris.

During the occupation of France from 1940 to 1943, through numerous articles and editorials, Brasillach championed the Nazis, and used his newspaper, *Je Suis Partout*, to denounce members of the French Resistance and to advocate the deportation of French Jews to

extermination camps. In addition to editorials promoting French fascism and supporting the Vichy government, *Je Suis Partout* also contained the column "Everywhere and Elsewhere," which provided readers, including the Germans, with the names and locations of suspected members of the *Resistance* and Jews who were trying to evade capture or deportation. The paper reported violations of Vichy's Jewish laws, Jewish doctors who were still daring to practice medicine, journalists who were using aliases, and families who had moved to the unoccupied zone in Southern France to evade persecution or deportation.<sup>8</sup> Some of his most offensive comments were directed at the French government during the 1930s headed by Léon Blum, a Jew. In a February 1942 editorial in *Je Suis Partout*, Brasillach decried the "anti-fascist conspiracy in the service of the Jew" and compared the Third Republic to an "old syphilitic whore."<sup>9</sup> However, although Brasillach was merely articulating



German soldiers in occupied Paris

<sup>6</sup> Kaplan, 42.

<sup>7</sup> Spotts, 68.

<sup>8</sup> Kaplan, 32.

<sup>9</sup> Kaplan, 81.

official Vichy policy, a single sentence written in *Je Suis Partout*, written when thousands of Jews were being arrested and sent to death camps in Germany, was arguably his most damaging statement. He wrote, "We must separate the Jews *en bloc* [as one] and not keep any little ones."<sup>10</sup>

In early autumn 1944, after the liberation of Paris, the provisional government of France, headed by General Charles de Gaulle, began rounding up all individuals suspected of collaborating with the Germans, including members of the Vichy government, black-marketers, German informants, and even writers. Putting intellectuals on trial presented a unique problem because they were being judged, in effect, for their opinions as well as their deeds. This led to a more vexing question as to whether opinions could become deeds when they called for actions such as arrests, assassinations, and deportations.<sup>11</sup> Nevertheless, journalists and propagandists were among the

first to be formally tried.<sup>12</sup> They were imprisoned and charged with collaborating with the Germans and, in some cases, treason. Writers like Robert Brasillach were specifically charged with treason, in accordance with Article 75 of the French Penal Code that made "intelligence with the enemy" an act of treason.<sup>13</sup> Further, this article, barring any extenuating circumstances, specified the death penalty for any French citizen who undertook treasonous "intelligence with a foreign power during wartime."

Robert Brasillach was one of the first of several French writers to be indicted and brought to trial under what was called the Purge. While American soldiers were fighting the Nazis in the Ardennes at the Battle of the Bulge, Brasillach's trial began on January 19, 1945, in the *Salles des Assises*, a courtroom in recently liberated Paris. You will now have a chance to either prepare a role play or read a scripted version of this dramatic trial.

10 Kaplan, 82.

11 Spotts, 256.

12 Peter Novick, *The Resistance versus Vichy: The Purge of Collaborators in Liberated France* (London: Chatto & Windus, 1968), 162.

13 Gisèle Sapiro, "Portrait of the Writer as a Traitor: The French Purge Trials (1944–1953)," *E-rea* 4.2 (2006). <https://doi.org/10.4000/erea.257>.



# Roles

## President of the Court: Maurice Vidal

You will be responsible for running the trial like a typical judge. You will begin the proceedings by having the court clerk read the charges against the defendant and asking how he pleads. He will undoubtedly plead not guilty, at which time you will start the formal proceedings. However, unlike the judge in an American court, you will start by asking the defendant a series of questions to determine if there is guilt—similar to what might happen in grand jury proceedings. You will need to find out through your questioning whether the defendant is guilty of violating Article 75 of the French Penal Code, which made “intelligence with the enemy” an act of treason and mandated the death penalty.

Note that the defense attorney may make a motion to declare a mistrial. If that happens, you should reject that motion and remind the defense counsel that General Charles de Gaulle—the leader of the now-liberated France—declared the Vichy government illegal in November 1944 and that the only true French government is the Republic that existed prior to the invasion and occupation by Nazi Germany. Charles de Gaulle is now the head of that government, and he declared that that government never ceased to exist throughout the occupation of the Nazi invaders. It is that government that is now placing the defendant on trial.

You should specifically frame questions around the defendant’s pro-Fascist writings in the newspaper *Je Suis Partout* and his support of the Vichy government that included collaboration with the Germans against the *Resistance*—supporters of the Free French under Charles de Gaulle, French communists, and Jews. For example, you will ask the defendant to explain the article he wrote, “The Birth of Feeling,” which suggested his love and admiration for German soldiers—the very men who were committing atrocities throughout France and the rest of Europe. You will question how it was that the defendant engineered such an early release from his German prisoner-of-war camp and what kind of promises might have been made for that release to both the Germans and Vichy officials. You will cast doubt on the motives of the defendant to attend literary conferences in Germany and his support of a French bookstore known as the *Rive Gauche*. You will question why the defendant continued to write pro-Fascist articles even though he must have been aware that they were serving the Nazi cause.

After your questioning of the defendant, you will give both the prosecution and defense the opportunity to present witnesses. However, in this case, neither attorney will be offering any witnesses, so you will proceed to the *plaidoirie*—the formal speech given by the state prosecutor. After the state prosecutor has concluded his speech, you will request that the defendant’s attorney give the *réquisition*—the formal speech given by the defendant’s attorney.

After the formal speeches have concluded, you will give the defendant an opportunity to say any last words, and then you and the jury will retire to your chambers to deliberate the verdict. Unlike an American trial, you will be able to work with the jury to decide a verdict, and it does not need to be unanimous—only a simple majority.

When the jury has reached its verdict, you should return to the courtroom and deliver the verdict. If the defendant is found guilty, you should sentence him to be shot by a firing squad.



### Court Clerk

You will assist the president of the court by reading the charges against the defendant. You will say:

"The defendant, Robert Brasillach, is charged with violating article 75 of the Penal Code for participating in treasonous intelligence with the enemy, Nazi Germany. To this charge, how do you plea?"

You will also assist the president of the court in maintaining order in the courtroom.

### Robert Brasillach

You are a famous writer who is the author of many articles, editorials, novels, and poems of great literary value to the nation of France. However, you have been accused of turning your great talent against your country by collaborating with the Germans and willingly assisting the Nazis by disseminating Fascist propaganda. When your trial begins, you will plead not guilty to the charge that you violated Article 75 of the French Penal Code that cites participating in treasonous intelligence with the enemy—in this case, Nazi Germany.

At the beginning of the trial, your attorney will likely enter a plea to the court to declare a mistrial with the contention that you cannot be brought to trial at this time because the leaders of the Vichy Regime—the acknowledged government of France—have not even been brought to trial. You do not consider yourself a traitor. In fact, you believe you should be considered a patriot who was simply supporting the policy of the existing government, which had been invested with full constitutional powers by the National Assembly of France on July 10, 1940. Your guilt or innocence is entirely dependent on how the governmental leaders of Vichy France are treated. It is very unlikely that the court will accept this plea, but it is worth a try.

You will not be presenting any witnesses in your defense. Instead, you will be relying on the summary statement to the jury on your behalf by your attorney(s) and by your own answers to questions posed by the president of the court and by members of the jury. The following is some information that will be helpful to you in framing your responses to their questions:

- You will admit that you did write pro-Fascist articles for the French weekly newspaper *Je Suis Partout* until late 1943, when you stopped because it became clear to you that Germany was going to lose the war. However, you always considered your views expressed in the paper to be pro-French fascism and not supportive of German National Socialism (Nazism).
- You admit that during the war, you considered the supporters of Charles de Gaulle to be traitors because you believed it was your duty to remain loyal to the government of France in power.
- You will maintain that you faithfully served France in the army until you were captured in 1940 and were only released from a German POW camp to become the head of French cinema. It was not to write propaganda for the Nazis.
- You will admit to attending at least two literary conferences in Germany. However, these events had nothing to do with the war, and there was no effort on the part of the Germans to enlist you in any illicit activities.
- You will deny any form of collaboration other than writing articles. Your participation on the board of directors of the bookstore *Rive Gauche*, for example, was merely a job, and most of the books you handled were French classics.

- You will admit that you did write the article “The Birth of Freedom,” which expressed your admiration for German soldiers. However, you will say that it was merely the kind of admiration for soldiers who were devoted to their nation and their duty. You were not praising them for the kinds of actions some of them were perpetrating on the civilian population.
- You do not consider yourself a Nazi puppet. Yes, you supported the idea of French fascism. Yes, you did write articles that were anti-Semitic, but you considered it French anti-Semitism, not German. Yes, you did suggest harsh measures against Communist resistance leaders because they were the ones who were organizing and committing attacks on Germans that resulted in retaliation—the taking of innocent French hostages, the arrests, the tortures, the executions. They should have taken responsibility and paid the price. You take responsibility for your actions.
- You consider yourself a literary contributor to newspapers—speaking your beliefs—and you say this out of respect for the truth. You regret none of your statements.

**State Prosecutor: Marcel Reboul and Assistant State Prosecutor**

Since this case involves political treason in writing, rather than action, you will have to prove to the jury that there is such a thing as intellectual crime. This is further complicated by the fact that the defendant, Robert Brasillach, is a famous writer and a former student at the prestigious French school *Ecole Normale Supérieure*.

In your formal speech to the jury, you should point out that Brasillach committed treason in a variety of ways and for various motives. Specifically:

- He wanted to get out of his confinement in the POW camp and was willing to collaborate with the Germans to do so.
- He was at heart a Fascist, who was captivated by German power. He craved fame and influence, arguably because of weakness and vanity.
- His intelligence and influence were put into the service of the German propaganda effort, which was inherently intellectual treason. He was a traitor because he abandoned his legitimate literary efforts in order to achieve political influence and fame.
- He took advantage of his readers, especially the youth of France, using his powers of persuasion to turn them into criminals and informers.
- He denounced Communists, Jews, and civil servants, directly leading to German deportations and, ultimately, death in concentration camps.

**Defense Attorney: Jacques Isorni and Assistant Defense Attorney: Mireille Noël**

You should meet with the defendant, Robert Brasillach, and review answers he should give to questions he is likely to hear from the president of the court and the members of the jury.

When the trial begins, you should immediately ask for a mistrial on the grounds that Robert Brasillach cannot be brought to trial at this time because the leaders of the Vichy Regime—the acknowledged government of France—have not even been brought to trial. You will say that your client is not a traitor. In fact, you believe he should be considered a patriot who was simply supporting the policy of the existing government that was invested with full constitutional powers by the National Assembly of France on July 10, 1940. His guilt or innocence is entirely

dependent on how the governmental leaders of Vichy France are treated. However, it is very unlikely that the president of the court will accept your plea to declare a mistrial.

You will be obligated to give a summary speech in defense of your client, Robert Brasillach. You should focus your speech on some or all of the following points:

- Robert Brasillach is one of the great men of French literature, and if he were to be shot for treason, it would be an irreplaceable loss to French culture.
- You should highlight a lesser known aspect of his literary talent—his poetry. You will describe how he wrote a poem while he was in prison awaiting his treason trial. “The Names on the Walls” (see Documentary Evidence) compares his own suffering to that of the doomed *Resistance* fighters he has been accused of betraying.
- You will admit that Brasillach wrote controversial articles for the paper *Je Suis Partout*, but you will emphasize that he should not be condemned for merely expressing his opinions.
- You will highlight that Brasillach was captured in 1940, defending France from the German invaders, and was only released from the German POW camp to run the French cinema. He never made any promises to help with Nazi propaganda.
- You will assert that Brasillach’s association with the *Rive Gauche* bookstore was only for the purposes of selling French classical literature—not German propaganda.
- You will point out that he only traveled to Germany to attend literary conferences and he did so with other French writers and intellectuals.
- You will admit that Brasillach penned articles in *Je Suis Partout* that suggested that some *Resistance* fighters needed to be held responsible for their actions, but you will suggest that he actually did that to save lives because the Germans were going to shoot hundreds of hostages if they were not punished.
- You will emphasize that condemning Brasillach will not help heal the terrible wounds of occupation; it will only make things worse.

## Jury

### Lucien Albert Grissonnet

You are a forty-three-year-old printer who was active in the *Resistance* during the war. You were a member of a group called *Liberation*. At one point you were even arrested by the Gestapo and put on a train bound for a labor camp outside of France. However, you were able to escape and evade capture until the liberation of Paris. You had friends and colleagues who were confined, tortured, and shot by the Germans. You knew about the paper *Je Suis Partout*, but never read any of the articles or anything else written by the defendant.

During the first phase of the trial, the president of the court will allow you to ask the defendant questions. You should meet with the president of the court, and he will suggest questions that you may pose.

### André Raymond Victor Van der Beken

You are a forty-four-year-old railroad engineer. Prior to this occupation, you considered becoming an attorney and spent a little time studying French law. During the war, you were a member of the *Resistance* and, because of your connections to the French railroad system, you were able

to help prevent goods from being sent to Germany from France. You are a Protestant, and you are fundamentally opposed to the death penalty. You knew about the paper *Je Suis Partout* but only read a few of the articles and nothing else written by the defendant. You will likely argue that there are extenuating circumstances that should be considered in this case.

During the first phase of the trial the president of the court will allow you to ask the defendant questions. You should meet with the president of the court, and he will suggest questions that you may pose.

### Emile Jean-Marcel Riou

You are forty-four years old, and during the war you worked in Paris as a meter reader for an electrical company. You were also a member of the *Resistance* movement. You knew about the paper *Je Suis Partout* but never read any of the articles or anything else written by the defendant. You had friends and colleagues who were confined, tortured, and shot by the Germans.

During the first phase of the trial, the president of the court will allow you to ask the defendant questions. You should meet with the president of the court, and he will suggest questions that you may pose.

### René Emile Desvillettes

You were born in 1912 and are the oldest member of the jury. You are also a member of both the *Resistance*, known as *Liberation*, and the French Communist Party. During the war, you worked as an electrical technician. You had friends and colleagues who were confined, tortured, and shot by the Germans. You knew about the paper *Je Suis Partout* but never read any of the articles or anything else written by the defendant.

During the first phase of the trial, the president of the court will allow you to ask the defendant questions. You should meet with the president of the court, and he will suggest questions that you may pose.

# Script: Trial of Robert Brasillach

## Scene One: Indictment and Interrogation

**NARRATOR:** The trial of Robert Brasillach for treason against the nation of France begins at one o'clock in the afternoon on January 19, 1945, in the *Salles des Assises* in recently liberated Paris. His trial is open to the public, who are anxious to see what kind of justice is going to be meted out to one of the country's most notable writers. Brasillach allegedly supported the pro-Fascist Vichy regime, a government that collaborated with the Nazi invaders, during the occupation. Brasillach enters the courtroom with a guard and is escorted to the defendant's box, where he is seated. Already in place in the courtroom is his chief defense attorney, Jacques Isorni, seated at a long table, along with his assistants, M. Amiel, Mlle Frère, M. Hubert, and Mlle Mireille Noël. The attorneys look solemn, clothed in their traditional black robes. Seated at a table directly across from the defense is Marcel Reboul, the state prosecutor, who is also clad in a black robe. The court secretary is seated to the right of the judge's bench in front of the courtroom. The jury is seated to the left of the judge's bench. Spectators and the press corps take up every other available seat in the rear of the courtroom.

**COURT CLERK:** All rise. (*Maurice Vidal, the president of the court, enters and is seated*) Be seated.

**JUDGE VIDAL:** I now declare that court is in session to try the case of the defendant, Robert Brasillach. Defendant, please rise. The court clerk will now read the indictment.

**COURT CLERK:** The defendant violated Article 75 of the Penal Code that cites participating in treasonous intelligence with the enemy. The defendant is a writer and has authored many articles, novels, and poems of great literary value to the nation of France. However, he turned his great talent against our beloved country by willingly assisting Germany by disseminating Nazi propaganda. He also actively entered into relationships with German institutions that had a treasonous effect on our country. To this charge, how do you plea?

**ROBERT BRASILLACH:** (*Standing*) Not guilty.

**COURT CLERK:** The defendant may be seated.

**JACQUES ISORNI:** (*Rising*) The defense would like to immediately declare a mistrial.

**JUDGE VIDAL:** On what grounds?

**ISORNI:** We contend that the defendant, Robert Brasillach, cannot be brought to trial at this time because the leaders of the Vichy Regime—the acknowledged government of France—have not even been brought to trial. Our client, M. Brasillach, is not a traitor. In fact, we believe he should be considered a patriot who was simply supporting the policy of the existing government that was invested with full constitutional powers by the National Assembly of France on July 10, 1940. His guilt or innocence is entirely dependent on how the governmental leaders of Vichy France are treated.

**JUDGE VIDAL:** We shall consider your motion.

**NARRATOR:** The judge and the jury leave the courtroom together to discuss this motion and return a short while later.

**COURT CLERK:** All rise. (*Everyone in the court rises*) Be seated.

**JUDGE VIDAL:** Let me remind the learned defense counsel that General Charles de Gaulle—the leader of our now-liberated France—declared the Vichy government illegal in November 1944. The only true French government is the Republic that existed prior to the invasion and occupation by Nazi Germany. Charles de Gaulle is now the head of that government, and he declared that that government never ceased to exist throughout the occupation by the Nazi invaders. It is that government that is now placing the defendant on trial. M. Isorni, your motion for a mistrial is dismissed. We shall now proceed with the interrogation.

**COURT CLERK:** M. Brasillach, please rise.

**NARRATOR:** The defendant rises and stands confidently before the judge and jury.

**JUDGE VIDAL:** M. Brasillach, please tell the court why you decided to stop writing for the pro-Nazi weekly newspaper *Je Suis Partout* in 1943.

**BRASILLACH:** I believed that the Fascist cause—the French Fascist cause, that is—was lost. There was no longer any point in my writing any supportive articles. I never intended my belief in the value of National Socialism to interfere with my loyalty to France.

**JUDGE VIDAL:** Isn't it true, M. Brasillach, that you repeatedly referred to the supporters of General Charles de Gaulle, the so-called Gaullists, as French traitors?

**BRASILLACH:** Let it be said for the record that I do not hold them responsible for our defeat in 1940 against the German invaders, but when they were fighting against the legitimate government of France—what you are calling the Vichy government—I believe they were wrong. At that time, it would have been proper to consider them traitors.

**JUDGE VIDAL:** Well, it is certainly good for France that these men whom you called “Gaullist traitors” had the courage to stand up against the Nazi invaders. M. Brasillach, isn't it true that when you were sent to a prisoner-of-war camp in Germany, your release was engineered by the Vichy government, in collaboration with the Germans, so that you could return to Paris to oversee the French cinema, which was actively engaged in producing pro-Fascist films—in other words, propaganda?

**BRASILLACH:** I do not know who secured my release, but I would like to point out that I quickly resigned my post as commissioner of the French cinema. I had nothing to do with the production of any propaganda films.

**JUDGE VIDAL:** M. Brasillach, isn't it true that you made at least two significant trips to Germany to attend conferences, with other pro-Nazi writers, that the Germans used to buttress their pro-Fascist propaganda?

**BRASILLACH:** At the time, I did not think attending conferences with other intellectuals—other writers—was cause for concern. We were merely exchanging ideas. These were cultural meetings about literature, not politics.

**JUDGE VIDAL:** Regardless, don't you think that it was highly inappropriate to be cozying up to German intellectuals when you knew very well that every day—throughout France—hundreds of people were being deported to concentration camps in Germany?

**BRASILLACH:** M. President, in the first few years of the war—as you well know—the German occupation of our country was not what it was in 1943 and afterwards. We had to live with the occupiers, and it was necessary for everyone to make accommodations in order to survive.



**JUDGE VIDAL:** However, M. Brasillach, we all know in this courtroom that the Nazi form of what you are calling “accommodations” was really collaboration—it was the wholesale looting of our beloved France, from our food to our art. It also, more tragically, involved the deportation of thousands of French citizens to concentrations camps—where many perished.

**BRASILLACH:** M. President, as you point out, it was not Frenchmen who were stealing—they were the ones who were trying to prevent our country from being looted. Anyway, I had no part in this kind of collaboration—so why am I in trouble?

**JUDGE VIDAL:** What about your work for that pro-Nazi bookstore, the *Rive Gauche*, where you served on the board of directors?

**BRASILLACH:** M. President, I can’t understand how it is that a French bookstore that specializes in French literature can be considered supporting the Germans. Yes, we did sell some German books and, yes, we did sell French books of literature to replace books lost from German libraries because of the Allied bombing campaign—but how is that a crime? I am a writer—I value literature. If anything, we should appreciate the fact that the Germans valued our literary tradition.

**JUDGE VIDAL:** M. Brasillach, isn’t it true that you loved Germany—its culture, its people, and its politics of fascism? Didn’t you write, in “The Birth of Feeling,” about your love and admiration for German soldiers?

**BRASILLACH:** I saw them as having commonality with soldiers everywhere—doing their duty to their nation.

**JUDGE VIDAL:** Yet these very soldiers were committing horrible atrocities throughout France.

**BRASILLACH:** That may be true for some of them, but perhaps that is the nature of soldiers at war. Consider the atrocities committed by our own troops in Indochina, before the war. I ask you—weren’t they just as bad?

**JUDGE VIDAL:** M. Brasillach, you consider your support of the Vichy government patriotic. You declare yourself not a Nazi puppet—not a collaborator—but the evidence suggests otherwise. How can you defend your repeated calls, in articles and editorials, for swift justice against Communist agitators, Third Republic ministers, and those you termed “Gaullist traitors”?

**BRASILLACH:** I believed, at the time, that these men were undermining the true and legitimate government of France and should be punished.

**JUDGE VIDAL:** Didn’t the Germans order you to write these kinds of comments?

**BRASILLACH:** No. Why would you even think that? Besides, I do not think the Germans even cared what I, or any other French writer, had to say.

**JUDGE VIDAL:** But you must have known that your writings were serving the German cause. Why didn’t you just stop?

**BRASILLACH:** I did not believe at the time I was expressing pro-German ideas. I supported the idea of French fascism—I was then, and I remain today a French nationalist. I agree that my articles did suggest anti-Semitic beliefs—but it was French anti-Semitism, not German. I suggested harsh measures against Communist resistance leaders because they were the ones who were organizing and committing attacks on Germans that resulted in retaliation—the taking of innocent French hostages, the arrests, the tortures, the executions. They should have taken

responsibility and paid the price. I take responsibility for my actions. I was a literary contributor to newspapers—speaking my beliefs—and I say this out of respect for the truth. I regret none of my actions.

**JUDGE VIDAL:** We shall now proceed with the arguments for the prosecution and the defense.

## Scene Two: The Prosecution and Defense Final Statements

**NARRATOR:** The two opposing attorneys, Reboul for the prosecution and Isorni for the defense, prepare to give their summary statements to the court.

**JUDGE VIDAL:** M. Reboul, you may address the court.

**MARCEL REBOUL:** (*Rising and facing the jury*) M. President and gentlemen of the jury, one has to wonder why a man like M. Brasillach—a man of such immense talent, undoubtedly one of France's most gifted writers and speakers—could turn his pen into a poison pen, spewing out articles and making statements with his mean prose that targeted communists, Third Republic leaders, Jews, and other French intellectuals. In his favorite paper—the pro-Fascist paper *Je Suis Partout*—he argued over and over that there should be no extenuating circumstances for Third Republic leaders who he believed were responsible for the French defeat in 1940. Communist deputies, he repeatedly said, should be sent to concentration camps or even shot. His writings against the Jews were particularly harsh. He said that France should treat what the Nazis were calling the “Jewish problem” without any sentiment—they should be expelled from France, even the little children. Did his writing influence the German secret police, the Gestapo? Certainly. They read his articles and saw in his words a legitimate call to action that resulted in repression and even horrid acts of retribution. And how he did admire these German overlords! I might even say, this feeling that dare not say its name, which is love! Gentlemen of the jury, his attacks had real consequences for real people because—as you well know—we were an occupied country under the domination of an evil Fascist regime. Real people, some of them your friends and colleagues, suffered because of his words. M. Brasillach's words had a direct and negative affect on the youth of France—turning them astray, seducing them with his silver but treasonous pen. May I remind the court that I recognize that this is a treason trial and that M. Brasillach is not being tried for his subversive opinions; he is being tried for violation of Article 75 of the Penal Code. M. Brasillach, your work was bad for France, and for your efforts you should pay the ultimate penalty—death.

**JUDGE VIDAL:** M. Isorni, you may address the court.

**ISORNI:** (*Rising and facing the jury*) Your honor, gentlemen of the jury, the defendant is a man like no other man that has faced a trial for his life. We view him as one of the great men of French literature—a gifted writer who, with his radiant talent, captured the emotions of French readers before and during our struggles in this awful war. His dazzling mind must not be smothered because it will represent an unparalleled loss to French literature. Gentlemen, most of you are familiar with his fame as a novelist, essayist, and critic—however, I would like to focus your attention on a lesser known aspect of his genius and sensitivity: his poetry. While he was awaiting this trial—with a death penalty hanging over his head—he wrote a poem titled “The Names on the Walls” in which he speaks, not of his own suffering, but of the doomed *Resistance* fighters he has been accused of betraying. I would like to read that poem to you (*reads the poem out loud*). Gentlemen of the jury, these are not the words of a traitor—a man who loved the Nazis—but those of a patriot. I ask you this question then, gentlemen: Can we call ourselves

a civilized country if we are willing to shoot our poets, our novelists, our philosophers, or our critics simply for expressing themselves? Did Robert Brasillach write controversial articles for the paper *Je Suis Partout*? Yes. I am obliged to tell you that the very person France has appointed president of the High Court of Justice, Judge Bouchardon—the very man who will shortly be presiding over the treason trials of Vichy ministers like M. Petain—said in an interview given to *Je Suis Partout* that he “appreciated Robert Brasillach and his paper.” So, I ask you: Why is Robert Brasillach even on trial? I think that everyone in this court clearly understands that the defendant is on trial for his opinions—his words—not for his deeds. In 1940, Lieutenant Robert Brasillach was captured by the Germans while defending our native soil from the Nazi invaders. He was imprisoned in Germany. The prosecution contends that he was freed from the POW camp in Germany so he could write pro-Nazi propaganda. This is not true. He was freed because the Vichy government asked that he be liberated to be appointed the commissioner of French cinema. The allegation that his association with the *Rive Gauche* bookstore was treasonous is equally false. The *Rive Gauche* bookstore was simply a business that primarily sold French classical literature, not propaganda. Finally, his trips to Germany to attend conferences were entirely about the exchange of literary criticism, not the creation of pro-German propaganda. If these trips were really criminal, why have you not arrested the other writers who attended? Did Robert Brasillach write articles that suggested some *Resistance* fighters be held responsible for their actions? Yes. He struggled with this problem because, as you all know, the Germans were utterly ruthless. He came to believe that the punishment of some *Resistance* fighters would actually save French lives because the Germans would have massacred hundreds in reprisal if the guilty were not condemned. Further, I must remind you that this very institution—the public Ministry of Justice—during the occupation, collaborated with the Nazis, pursuing and condemning Jews, resisters, and Communists. If a French magistrate had refused to condemn half a dozen captured *Resistance* fighters, the Germans would have executed hundreds. That was the reality we all lived with, including the defendant. I tell you, vengeance against this man of letters—his death—will not help France heal from the terrible wounds of our occupation, but your mercy will. I pray that your verdict will be just and that this man may live to continue to produce great French literature.

**JUDGE VIDAL:** M. Brasillach, do you wish to speak?

**BRASILLACH:** I know that I am facing the death penalty, but I must stand firm on my beliefs. I regret nothing of what I have been or what I have done.

**JUDGE VIDAL:** The court clerk will now read out the charge against the defendant that we shall consider in our deliberation.

**COURT CLERK:** Robert Brasillach, it is charged, under Article 75 of the French Penal Code, that between the years 1941 and 1944, during wartime and on the national territory of France, you undertook intelligence with Nazi Germany and its agents to favor their interests against France and the other nations allied in war against the Axis powers.

**JUDGE VIDAL:** The court will now retire to consider the verdict.

### Scene Three: Deliberation and Verdict

**NARRATOR:** Inside the deliberation room, President of the Court Vidal and the jury begin their deliberation.

**JUDGE VIDAL:** Gentlemen, you have heard my questions and the defendant's answers. You have heard the statements by the prosecutor and the defendant's attorney. Do you have any questions or statements you would like to make regarding the charge against the defendant or anything related to the statements made during the course of the trial?

**LUCIEN GRISONNET:** I don't know how the other jurors feel, but I was in the *Resistance* and I had friends that were tortured and murdered by the Nazis. For me, it was clear that, however famous this man might be, there was no excuse for writing the things he did in that paper, *Je Suis Partout*. I was not moved at all by the poem he wrote while awaiting trial. He was facing French justice, not torture and death at the hands of the Gestapo. He has nothing in common with these brave men who put their lives on the line to help liberate our country. Several of them were my friends.

**ANDRÉ VAN DER BEKEN:** I agree. I too was in the *Resistance*. I don't call myself a hero—I just did what I had to do, as did others. That Vichy government was not the true government of France, it never was. M. Brasillach should never have condoned, much less encouraged, their Fascist collaboration with the Germans. It was clear to me, despite statements to the contrary, that the only reason he was released from that German POW camp was so he could write Nazi propaganda.

**EMILE RIOU:** Yes, and what about the fact that he encouraged the Nazis to deport entire families of Jews—even little children?

**RENÉ DESVILLETES:** He even had the nerve to call himself a French patriot for his service at the beginning of the war and his support of that puppet government. He was drafted into the army—he didn't volunteer. I agree that he undoubtedly was released from that POW camp to collaborate with the Vichy government and their German masters. And what about that trip to Germany with other pro-Fascists? I don't think the only thing they discussed there was French literature. I believe they must have swapped notes about how they could best support the Germans.

**JUDGE VIDAL:** Let me remind you gentlemen that the defendant is specifically charged with treasonous intelligence with Nazi Germany under Article 75 of our Penal Code, and if he is found guilty by a majority here in the room, I will have no choice but to sentence him to be shot.

**GRISONNET:** How can we face our fellow Frenchmen if we show mercy to this traitor just because he happens to be a smart young fellow? Yes, he is a clever fellow—a good writer—but he turned that talent against his fellow citizens—especially the youth of our country. I believe he is guilty and should be punished.

**VAN DER BEKEN:** I think that, even during the occupation, most of us—certainly myself—were never influenced by his poisonous pen, but that does not convince me that he should not be punished either. I believe he is guilty. However, although he is a smart fellow, he is young, and maybe we should have mercy. Perhaps we should recommend a long prison sentence, if that is possible.

**RIOU:** How can we move forward and hold accountable all those others who collaborated with the Nazis—the Vichy government officials, black-market dealers, and informants—if we can't face the fact that writing Fascist propaganda supporting the Germans was just as criminal? He is guilty.

**DESVILLETES:** I agree with my three colleagues. He may be a brilliant writer, and it is no easy decision to condemn a man with such potential, but we cannot let that sentiment cloud our decision. He is guilty. However, I believe that the court might see fit to show mercy, if possible, and recommend that M. Charles de Gaulle show mercy and commute his sentence to life in prison.

**JUDGE VIDAL:** Gentlemen, by a clear majority you have made your decision and I agree. For me there is little doubt that he is guilty. We shall now return to the courtroom and I shall pass sentence on the accused. Unfortunately, the law is clear in this case—I must condemn him to death.

**NARRATOR:** The president of the court and the jury return to the courtroom after deliberating for less than twenty minutes.

**COURT CLERK:** The defendant will now stand to hear the sentence of the court.

**JUDGE VIDAL:** Robert Brasillach, the court has found you guilty with no extenuating circumstances. Therefore, in compliance with the Article 75 of the French Penal Code, the court condemns you to be taken to a place of execution, where you will be shot.

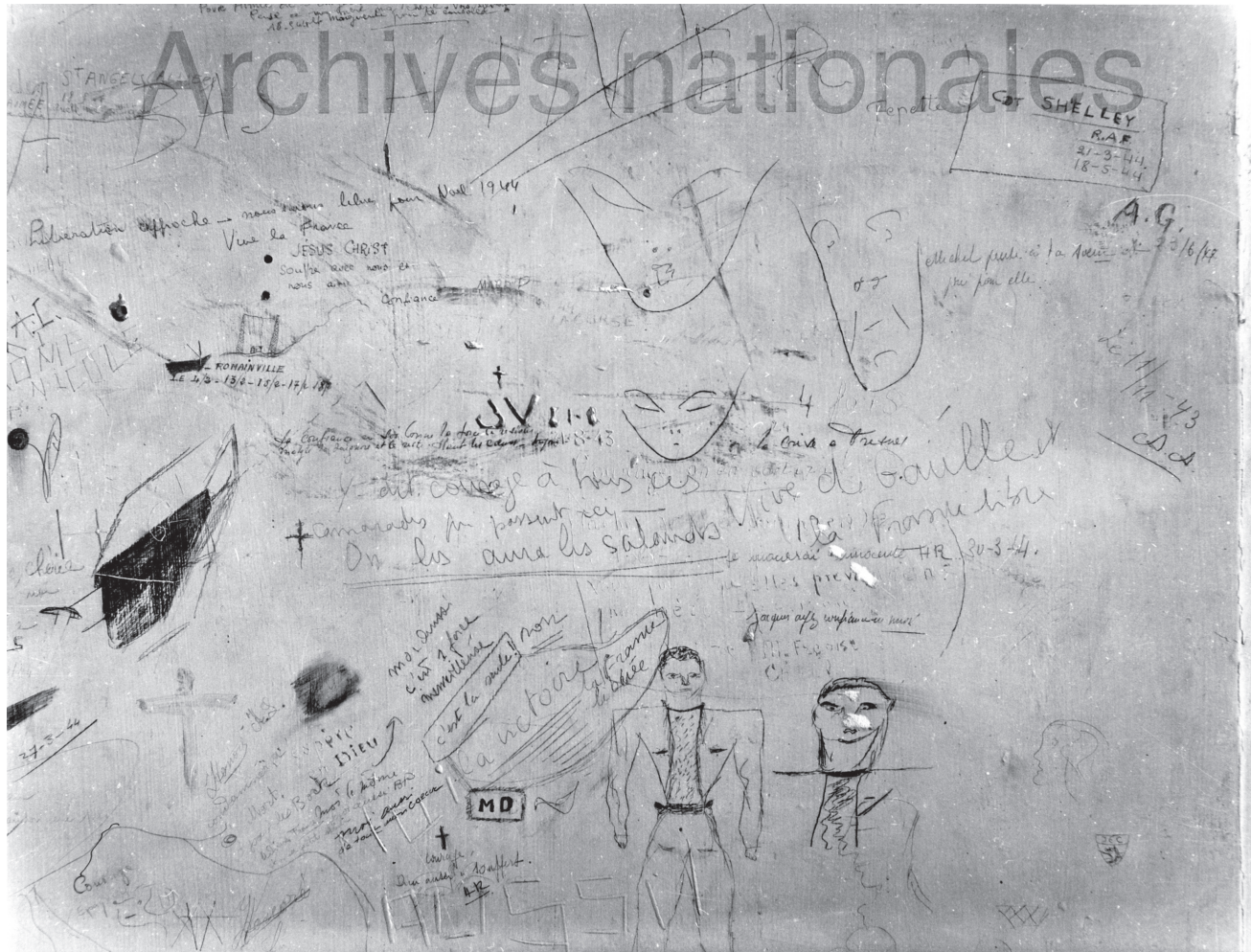
# Documentary Evidence

## “The Names on the Walls” by Robert Brasillach

Others have come through these halls  
Whose names on the moldy walls  
Already are peeling and faded.  
They have suffered and waited,  
And sometimes their hope came true;  
It tricked these walls for a few.  
Come from near, come from far,  
We hadn't the same heart,  
They told us. Why should they be right?  
What does it matter what we were!  
Our faces foggy in the blur  
Look alike in the dark night.  
It's you, brothers never known,  
On whom I think, at night alone;  
O fraternal adversaries!  
Yesterday is so close to today.  
In spite of ourselves, united we stay  
In our hope and in our misery.  
I think of you, you who dreamed;  
I think of you, you who suffered.  
To me your place has been conferred  
If tomorrow my life is spared.  
The names on the walls that are spread  
Will they be our password?

**Source:** Kaplan, Alice. *The Collaborator: The Trial and Execution of Robert Brasillach*. Chicago: University of Chicago Press, 2000. 87–88.





Inscriptions left by doomed Resistance fighters on the wall of Brasillach's prison

Image source: Courtesy of the French National Archives, Ministère de l'Intérieur.

# Time Line

<b>1937</b>	Brasillach becomes editor-in-chief of <i>Je Suis Partout</i> .
<b>1939</b>	World War II begins in Europe. Brasillach is drafted into the French army.
<b>1940</b>	France is defeated by Nazi Germany. Brasillach is captured and briefly interned in a POW camp.
<b>1943</b>	Brasillach resigns his position at <i>Je Suis Partout</i> .
<b>1944</b>	Robert Brasillach is put on trial.
<b>1945</b>	Robert Brasillach is executed.

# Glossary

**Article 75:** A provision of the French Penal Code that made “intelligence with the enemy” an act of treason.

**Collaborator:** A person who supports the enemy of their country.

**Gestapo:** The German secret police.

***Je Suis Partout*:** A French pro-Fascist newspaper, the title of which translates to “I Am Everywhere.”

***Plaidoirie*:** The formal speech given by a state prosecutor.

***Réquisition*:** The formal speech given by a defense attorney.

**Vichy:** The government of France that collaborated with the Germans during Nazi occupation.



# Postscript

Many French intellectuals were dismayed by the jury's verdict and Brasillach's death sentence. Fifty-nine of them including Jean Cocteau, Colette, François Mauriac, Paul Valéry, and Albert Camus signed a petition to the court for clemency. The appeal was rejected. On February 7, 1945, France's official news agency reported that thirty-six-year-old Robert Brasillach was shot by a firing squad at Fort de Montrouge on the outskirts of Paris. According to witnesses, he died bravely. His last words were: "Long live France all the same."

The myth of a heroic resistance movement was promoted by the French media in the years immediately following the end of World War II, especially by writers like Jean-Paul Sartre and Simone de Beauvoir, who inflated their own active participation. However, most of the French, including celebrated artists and intellectuals, were never actively involved in the really dangerous actions of the *Resistance*—blowing up bridges, cutting rail lines, assassinations, or spying.



Grave of Robert Brasillach, which he shares with his mother, at the Cimetière de Charonne in Paris

Image source: © Mu/CC BY-SA 3.0.

## Discussion Questions

1. The evidence presented at the trial suggests that, undoubtedly, Brasillach's words gave aid and comfort to the enemy. His public denunciations likely led to the torture and execution of several members of the French Resistance. He was undeniably a traitor but, under the circumstances, did he deserve to be shot? Discuss.
2. The legal atmosphere in recently liberated France was very different than it is in the United States, even in 1944. Do you think that an American court would have condemned Brasillach to death in a similar trial, especially considering our traditional commitment to free speech? Discuss.
3. What responsibility do writers bear for their work? When do words become crimes? Discuss.
4. Could Brasillach have been acquitted? Did his defense attorney make a serious mistake by presenting a literary defense and for failing to connect with the working-class jury who had been members of the Resistance? Or did he see the handwriting on the wall and realize that his only hope was to appeal to the court of public opinion, wagering that only intense public sympathy for Brasillach—arguably one of France's greatest living writers—might influence General Charles de Gaulle to pardon him? Discuss.
5. Did Brasillach and other pro-Fascist writers demonstrate that the collaborationist government of France, headed by Marshall Petain, did much more than merely react to German pressures? Did these Vichy leaders and intellectuals actively pursue their own double agenda: internally, the authoritarian and racist national revolution, and externally, an attempt to persuade Hitler to accept a new Fascist France as a partner rather than merely an occupied country? Discuss.
6. Are our stereotypical notions of "resistance" and "collaboration" inadequate to describe the reality of people's behavior under the extreme circumstances of war and occupation? Where does patriotism end and collaboration begin? Discuss.
7. Why did Robert Brasillach, who was undoubtedly one of France's most gifted writers, misuse his talents and influence in support of Fascism? Discuss.
8. In Robert Brasillach's trial and many of the other trials during the Purge, French defense attorneys often attempted to lessen the blame of their clients by pointing out that prosecutors, magistrates, and court presidents all served the Vichy regime and had no moral right to sit in judgment. Do you think this is a valid argument? Discuss.
9. Many Frenchmen came to believe that writers like Brasillach were scapegoats while others, particularly economic collaborators, received only token penalties or were acquitted because juries were reluctant to find them guilty, believing that the accused "had to make a living." Do you think this was fair? Discuss.

10. There is little reason to doubt that Brasillach genuinely wanted those he hated to suffer and die. Many believed that through his writings in *Je Suis Partout* and other publications, he had clearly collaborated with the Gestapo. However, can it not be argued that there is a vast difference between publicly calling for persecution and death, and actually causing it to be committed? Doesn't this query resonate today, when it seems that expressing positive views about terrorism risks indefinite detention in places like Guantanamo Bay? Discuss.
11. Clearly, the most horrific consequences of the actions taken by collaborators in France had to do with the denouncing and deporting of Jews in the Holocaust. However, Brasillach was never formally charged with anything like crimes against humanity. Had his trial been delayed until after the war, do you think he might have been accused and convicted of actions, not merely words? Discuss.
12. Little is known, even today, about Brasillach's love life, but he was widely considered by many to be gay. When the prosecutor said, "And how he did admire these German overlords! I might even say this feeling that dare not say its name—which is love!" it was in effect a dog whistle to the jury about his sexual orientation. Do you think this had any impact on the verdict? Discuss.
13. Arrange the following actions in order of "most collaborative" to "least collaborative." Discuss your decision. At what point did any of these actions cross the line and become treasonous?
  - Buying products manufactured in Germany
  - Attending a party hosted by German officers
  - Dating a German soldier
  - Informing Vichy authorities about the true identity and religion of a colleague
  - Writing a letter to the editor of a newspaper, praising the virtues of fascism
  - Attending a business conference in Germany
  - Renting a room in your house to a German citizen
  - Listening to a German radio station
  - Informing on local Resistance fighters
  - Studying the German language

## Extension Activities

1. The judges and prosecutors of the treason trials during the Purge, like Vidal, went to great lengths to draw distinctions between their own practical collaboration, which they justified by stating they were preserving the French people from the greater horrors of direct Nazi rule, and Brasillach's openly Fascist articles and editorials in *Je Suis Partout*. However, the accusations against Brasillach risked rebounding on the accusers, along with an extra charge of hypocrisy. Write an essay or create a class presentation that either supports or condemns their behavior.
2. Today, Robert Brasillach has become somewhat of a martyr for the extreme Right in France and a hero for Holocaust revisionists. He said at his trial, "I can regret nothing of what I have been," even though he knew he was facing the death penalty.<sup>1</sup> Write an essay or create a class presentation that explains how this happened and if he really merits this inglorious fame.
3. The power and influence of the written word—the capacity of language to inflict real harm—is at the heart of the Brasillach case. Write an essay or create a class presentation comparing Brasillach's trial and conviction with that of Robert Chandler, who was convicted of treason by an American court for broadcasting Nazi propaganda from Germany during the war, but received only a long prison term.<sup>2</sup>
4. The social historian Henry Russo coined the term "Vichy syndrome" for the way the French have remembered the grim occupation years from 1940 to 1944. He said that in the years immediately following the liberation, the French heaped blame on many members of the population as collaborators, including intellectuals and artists like Brasillach. By the 1950s, a whitewashed fiction emerged about the period that portrayed a small number of traitors collaborating with the Nazis but ultimately being heroically defeated by dedicated Resistance fighters. A good example of this view is depicted in the exciting film *The Train*, starring American film star Burt Lancaster. In the late 1960s and 1970s, this myth was challenged by films like Marcel Ophüls's *The Sorrow and the Pity* that showed an overwhelmingly collaborative French population. In this movie, there is a striking image of a former *Wehrmacht* officer saying, "People in Clermont liked us very much; our relations were good, and as far as they were concerned, there was no distinction between Frenchmen and Germans."<sup>3</sup> Since then, there has been more willingness on the part of France to openly confront the decisions made by the French during this period. Although in 1984, when Mitterrand was president, there was an attempt to ban the showing of the film *Terrorists in Retirement*, a documentary about young Jewish resistance fighters who were betrayed to the Gestapo by Parisian Communists in 1943.<sup>4</sup> Write an essay or create a class presentation expanding on this theme.

1 Spotts, 256.

2 Note: The trial of Robert Chandler can be found in *Treason on Trial: American History*.

3 Sweets, 163.

4 Eric Conan and Henry Rousso, *Vichy: An Ever-Present Past* (Hanover, NH: University Press of New England, 1998), 16.



5. In the French film *Au Revoir Les Enfants*, the plot centers on a Catholic boarding school, the village in which it was located, and the lives of the adults and children under German occupation. The main focus is on two boys, one a Jewish child being shielded from deportation, the other a middle-class Catholic boy. As the story unfolds, the young Jewish boy is betrayed by an employee of the school who had been reprimanded by the school's administrator for stealing food and selling it to the Germans. It shows genuine collaborators as well as those who heroically resist, most significantly the head priest who gives up his life for having tried to save the Jewish child. Watch this film and discuss the moral dilemmas and decisions made during the film.

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