

J. Clifford Cheatwood Inn of Court

Honorable Chris Altenbernd's Pupillage presents:

**“UNDERTAKING THE UNPOPULAR CAUSE:
You May Have More in Common with John Adams Than You Think”**

Oath of Admission to The Florida Bar

"I do solemnly swear:

I will support the Constitution of the United States and the Constitution of the State of Florida;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land;

I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my clients, and will accept no compensation in connection with their business except from them or with their knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay anyone's cause for lucre or malice. So help me God.”

ROOM A

Judge Barton's Pupillage Judge Scriven's Pupillage

A CIVIL ACTION (1998)

The case revolves around an incident in 1979 in East Woburn, MA, where two drinking wells supplying water to the town were found to be contaminated with industrial solvents. When toxic waste was discovered later that year, suspicions arose that the local factories caused the pollution and residents felt these companies were responsible for the unusually high rate of leukemia deaths amongst the town's children. Anne Anderson (Kathleen Quinlan), a mother who lost her son Jimmy to leukemia, fronts an effort to bring a lawsuit against the major conglomerates Beatrice Foods and W. R. Grace & Co for their pollution crimes. The town enlists the help of Jan Schlichtmann (John Travolta), a personal injury lawyer whose small law firm endeavors to sue these industrial giants for millions of dollars in damages. Aside from the fact that Schlichtmann is up against Jerome Facher (Robert Duvall) and William Cheeseman (Bruce Norris), high-priced lawyers who represent the big companies, Schlichtmann and his three partners find themselves in a battle for mere survival. As the case unfolds the partners realize that their careers, law practice, and personal finances all hang in the balance.

- 1.) As an attorney, how do you decide whether to undertake representation of an unpopular client/cause?
- 2.) To what extent do you put the zealous representation of your clients above your own interests? Conversely, at what point do you put your own interests above your clients'? How do you know you have reached that point? What do you do when you know you have reached that point?
- 3.) Are there some personal interests you should put above your clients' and some that you should not? Which ones? How do you decide?

ROOM B

Judge Bucklew's Pupillage
Judge Williamson's Pupillage
Judge Honeywell's Pupillage

A TIME TO KILL (1996)

Carl Lee Hailey (Samuel L. Jackson) takes the law into his own hands after the legal system fails to adequately punish the men who brutally raped and beat his 10 year-old daughter Tonya, leaving her for dead. Hailey shoots and kills the two men in the Canton, Mississippi courthouse while they are escorted by police to their arraignment. He chooses novice lawyer Jake Brigance (Matthew McConaughey) to handle his defense in the murder trial of the two men, and the stakes quickly escalate. Brigance, struggling to keep a new law practice afloat, finds himself defending an unpopular client with no money. So inflammatory is the situation, that the local KKK, led by Freddy Cobb (Kiefer Sutherland) becomes popular again. With the town divided over the fate of Hailey, riots break out and Brigance, his family, and co-workers fall victim to the violence.

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- 2.) To what extent do you put the zealous representation of your clients above your own interests? Conversely, at what point do you put your own interests above your clients'? How do you know you have reached that point? What do you do when you know you have reached that point?
- 3.) Are there some personal interests you should put above your clients' and some that you should not? Which ones? How do you decide?

ROOM C

Judge Levens' Pupillage

Judge Silver's Pupillage

Judge Menendez's Pupillage

TO KILL A MOCKINGBIRD (1962)

Set in a small Alabama town in the 1930s, the story focuses on scrupulously honest, highly respected lawyer Atticus Finch (Gregory Peck) who puts his career on the line when the town's judge asks him to represent Tom Robinson (Brock Peters), a black man falsely accused of the rape of a white woman. The trial and the events surrounding it are seen through the eyes of Finch's six-year-old daughter Scout (Mary Badham). With racial tensions brooding, the trial creates division among the town and Finch and his children must contend with the backlash outside the courtroom.

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- 3.) Are there some personal interests you should put above your clients' and some that you should not? Which ones? How do you decide?

AMISTAD (1997)

This long-ago episode in African-American history recounts the trial that followed the 1839 rebellion aboard the Spanish slave ship Amistad while en route to Cuba. After a violent mutiny, Cinque (Djimon Hounsou) and the other Africans are captured and imprisoned in New England. It is there that former slave Theodore Joadson (Morgan Freeman), viewing the rebels as “freedom fighters,” approaches property lawyer Baldwin (Matthew McConaughey), who attempts to prove the Africans were “stolen goods” because they were kidnapped. Running for re-election, President Martin Van Buren (Nigel Hawthorne) overturns the lower court's decision in favor of the Africans. Former President John Quincy Adams (Anthony Hopkins) is reluctant to become involved, but when the case moves on to the Supreme Court, Adams stirs emotions with a powerful defense.

How would you create a theme in a trial when faced with representing an unpopular cause?

Notes on the Boston Massacre Trial

First things first:

1. Adams and co-counsel Josiah Quincy sought a continuance to prepare a defense and to let passions cool. The first trial was of Capt. Prescott. It didn't start until Sept. 7, 1770, six months after the March 5th incident. The second trial was of the eight men under Prescott's command. It took place three weeks after the first.
2. Residents of Boston were resentful of the Crown's decision to send 3,000 British troops to their city to quell rebellious notions and enforce British laws. Confrontations and fistfights between citizens and soldiers were common occurrences. Bostonians were almost universally convinced of the guilt of the British soldiers. Thus, Adams and Quincy exercised peremptory challenges to remove all potential jurors from Boston or the immediate vicinity. The jury was comprised of men from outside the immediate Boston area. The clerk seated the 12 jurors with the traditional address: "Good men and true, stand together and harken to your evidence."

John Adams, by Page Smith, Vol. 1 pp. 122-123.

Josiah Quincy's argument: He sought to stir the jury's conscience and break down prejudices.

We must not forget that we ourselves will have a reflective hour – an hour in which we shall view things through a different medium – when the pulse will no longer beat with the tumults of the day -- when the conscious pang of having betrayed truth, justice and integrity shall bite like a serpent and sting like an adder ... If you are determined in opinion, it is vain to say more; but if you are zealous inquirers after truth, if are willing to hear with impartiality, to examine and judge for yourselves – enough has been said to apprise you of those avenues at which the enemies of truth and justice are most likely to enter.

Ibid., page 124.

John Adams's arguments:

1. He reminded the jury of bedrock principles, concepts all the jurors were likely to agree on.

As the prisoners stand before you for their lives, it may be proper to recollect with what temper the law requires we should proceed We find in the rules laid down by the greatest English judges ... we are to look upon it as more beneficial that many guilty persons should escape unpunished than one innocent person should suffer. The reason is because it is of more importance to the community that innocence should be protected than it is that guilt should be punished

Ibid.

2. He sought to characterize the prosecution witnesses negatively and minimize the significance of their actions (to counteract the prosecution's attempt to memorialize them as patriot heroes):

In the continual vicissitudes of human things, amidst the shocks of fortune and the whirls of passion that take place in certain critical seasons, even in the mildest governments, the people are liable to run into riots and tumults. There are church quakes and state quakes in the moral and political world, as well as earthquakes, storms and tempests in the physical.... We have been entertained with a great variety of names to avoid calling the persons who gathered at the custom-house a mob. Some have called the shavers, some have called the geniuses. The plain English is, gentlemen, a motley rabble of saucy boys, Negroes and mulattoes, Irish teagues and outlandish jack tars. And why should we scruple to call such a set of people a mob? I cannot conceive, unless the name is too respectable for them. The sun is not about to go out, nor the rivers dry up, because there is a mob in Boston on the fifth of March that attacked a party of soldiers. Such things are not new in the world, nor is the British dominions, though they are comparatively, rarities and novelties in this town.

Ibid.

3. He carefully challenged the prosecution's evidence To counteract the impact of the prosecution's witnesses on the events leading to the shooting, Adams sought to prove that the soldiers acted in self-defense, using the example of one of the British guards, Hugh Montgomery, as he was attacked by the group.

When the multitude was shouting an hazzaing, and threatening life, the bells ringing, the mob whistling, creaming and rending an Indian yell; the people from all quarter throwing every species of rubbish they could pick up in the street ... Montgomery in particular smote with a club and knocked down, and as soon as he could rise and take up his firelock, another club from afar, struck

his breast or shoulder ... what could he do? You expect he should behave like a stoic philosopher, lost in apathy? Patient as Epictetus while his master was breaking his legs with a cudgel? It is impossible you should find him guilty of murder. You must suppose him divested of all human passions, if you don't think him as least provoked, thrown off his guard, and into the furor brevis, by such treatment as this.

Ibid., p. 125.

4. Adams reminded the jury of its responsibility to be guided by the facts and evidence.

Facts are stubborn things; and whatever may be our wishes, our inclinations, or the dictates of our passions, they cannot alter the state of facts and evidence.... To your candor and justice I submit the prisoners and their cause.

Ibid.

5. Adams carefully framed an “eloquent peroration” to prepare the jury to return an unpopular verdict.

The law, in all vicissitudes of government, fluctuations of the passions, or flights of enthusiasm, will preserve a steady undeviating course; it will not bend to the uncertain wishes, imaginations and wanton tempers of men.... It does not enjoin that which pleases a weak, frail man, but without any regard to persons, commands that which is good and punishes evil in all, whether rich or poor, high or low – ‘tis deaf, inexorable, inflexible. On the one hand it is inexorable to the cries and lamentations of the prisoners; on the other it is deaf, deaf as an adder, to the clamors of the populace.

Ibid.

Adams's later reflections on his service.

1. Even before the Boston Massacre Adams had begun to enjoy a reputation as a fine lawyer and rising political figure. While the case was pending Adams was elected to the General Court of Boston, a body determined to assert as much autonomy as it could, and not against challenging British actions it considered onerous. Adams and his cousin, Samuel Adams, were often given responsibility for drafting petitions to the British to express their opposition to measures taken by Parliament the dominions considered unfair. Adams was proud of this obvious indication of his political prestige, but felt the work would be an added burden just when the prospects for a more lucrative practice were getting more favorable. He felt the pressure of service in this elected body as well as the unpopular case he had undertaken would jeopardize his career.

I was throwing away as bright prospects [as] any man ever had before him ... [and devoting himself] to endless labor and anxiety if not to infamy and to death, and that for nothing, except what indeed was and ought to be all in all, a sense of duty.

Ibid., p. 126.


2. The immediate impact on his practice of Adams's victory in the trials was mixed, and initially negative, but minimally so. The practice soon prospered. Many in Boston and elsewhere admired him for his responsible advocacy. Later in his career his role in the trial served to enhance his image as a respected man of principle. Years afterwards he characterized his role in the trial this way:

... [It was] one of the most gallant, generous, manly and disinterested actions of my whole life, and one of the best pieces of service I ever rendered my country.

John Adams, by David McCullough, p. 68.

For a more in depth look into the life and career of John Adams see:

<http://www.law.umkc.edu/faculty/projects/ftrials/bostonmassacre/bostonmassacre.html>

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Hancock Oration	<h2><u>The Boston Massacre Trials: An Account</u></h2> <p>by <i>Douglas Linder</i> (c) 2001</p>
Indictments	<p>"The Part I took in Defence of Cptn. Preston and the Soldiers, procured me Anxiety, and Obloquy enough. It was, however, one of the most gallant, generous, manly and disinterested Actions of my whole Life, and one of the best Pieces of Service I ever rendered my Country. Judgment of Death against those Soldiers would have been as foul a Stain upon this Country as the Executions of the Quakers or Witches, anciently. As the Evidence was, the Verdict of the Jury was exactly right." --John Adams</p>
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