

Jacob Hurd vs. Rock Island Railroad Co.

Mock Trial

History Through the Arts

For more information, contact:

Maureen J. Korte

Director of Special Projects and Programming

Iowa Department of Cultural Affairs

600 East Locust

Des Moines, Iowa 50319

E-mail Maureen.Korte@iowa.gov

Phone: 515-281-4132

Fax: 515-242-6498

or

Judge Celeste F. Bremer

U.S. District Court

123 E. Walnut St., if Suite 435

Des Moines, IA 50309

515-284-6200

Instructions for Moderators

Moderators may be non-lawyers. This program is for middle school through high school students. Moderators will set up the room with 2 counsel tables, a judge's bench, clerk's station, and witness chair. Place the exhibits on the bench.

You are here to facilitate the mock trial and jury deliberations. You will have about 20 minutes for the trial, 10 minutes for deliberations, and 10 minutes for discussion and questions.

Once your group arrives, please do the following:

1. Assign roles. Don't ask for volunteers (takes too long, and causes confusion). Ask the students if they are comfortable reading out loud, if not, find someone else. Try to balance the number of roles between boys and girls. Anyone not selected for a role in the trial is a juror, so everyone will get to do something.
2. Hand out scripts to each cast member (the scripts are highlighted with the person's part). Give any hats, props, etc., to the correct witness.
3. Seat the attorneys, parties and witnesses at the counsel tables.
4. Have the judge go to the back of the room to put on the robe, then when court is announced (clerk bangs gavel), the judge comes forward and sits at the bench.
5. Attorneys are free to use the exhibits during opening and closing arguments. Help the attorneys/witnesses show and pass the exhibits to the jurors during relevant testimony (keep testimony going while exhibits passed around).
6. After closing arguments, have jury deliberate. If group is large, split into two or more panels. If the mock trial participants or adults in the room want to deliberate too, that's fine. But the verdict should be the result of the kids' discussion.
7. After verdict returned, answer any questions the students have, or use the discussion questions until your time is up. The students would also like to hear a short biography about you, and why you think being a lawyer is a good career.

Thank you so much for helping History Through the Arts be so successful!

EFFIE AFTON MOCK TRIAL SCRIPT

Cast:

Judge: The Honorable Judge McLean
Clerk of Court:
Plaintiff's Attorney: H.M. Wead
Defense Attorney: Abraham Lincoln
Plaintiff's Witness: Jacob S. Hurd, Captain and owner of the *Effie Afton*
Plaintiff's Witness: Captain Jack Sparrow, River Boat Pilot
Defense Witness: Jessie Smith, Director of the National Bridge Department
Defense Witness: Tracy Trainworker, bridge contractor that built the bridge

About this case (Moderator reads or summarizes the following):

On the evening of May 6, 1856, the *Effie Afton*, a new, well-equipped steamboat crashed into the newly built Rock Island Railroad bridge over the Mississippi River. The crash started a fire that burned the *Effie Afton* to cinders and caused the bridge thousands of dollars in damages. The boat's captain, Jacob Hurd, said there wasn't enough room under the bridge for steamboats to pass through. The Rock Island Railroad said the crash was the steamboat captain's fault because he was simply a bad pilot.

(Moderator may wait until after the verdict(s) are read to read the following.)

Abraham Lincoln won this case for the railroad, and changed the way goods and passengers traveled from the east coast to the west coast.

Steamboat operators were disappointed in the case's outcome, and wanted to get rid of the bridge. James Ward, a steamboat owner from St. Louis, sued Rock Island Railroad Company, co-owner of the railroad bridge. This company was based in Iowa, so the trial was held in Keokuk, Iowa. Ward hired a local attorney, Samuel Miller, to represent him at trial. Mr. Miller won that lawsuit and the court ordered the railroad to tear down the bridge. The railroad appealed that decision to the U.S. Supreme Court. Meanwhile, Abraham Lincoln had been elected President and needed to appoint a new judge to the Supreme Court. In 1862, he chose Samuel Miller to be the new Supreme Court Justice. The Supreme Court, without Justice Miller who excused himself from the case, reversed the decision to tear down the bridge.

Moderators use as needed:

Discussion Questions and Vocabulary

1. Were there any women on the jury in 1862? Were there any persons of color on the jury in 1862?
 - a. No, women didn't get serve on juries in Iowa until they got the right to vote in 1921.
 - b. No, African Americans didn't get to serve on juries in Iowa until they got the right to vote in 1868.
2. Did you think one of the witnesses in the trial was not telling the truth? Which one? Why?
 - a. Was the bridge really unsafe?
 - b. Did Jacob Hurd hit it on purpose because he was upset about the railroad company? Does his claim for \$200,000 seem high? (Especially in 1856?)
3. Did the trial seem fair? Why or why not?
 - a. Is there a better way to have a trial?
 - b. Did the trial leave out important information? What else did you want to know?
4. Is there some other way the railroad company and Jacob Hurd could have solved their problem?
 - a. Could they have worked it out on their own?
 - b. Could they have used someone besides a judge and jury to help them work out their problem? (Mediator in a settlement conference.)

Vocabulary:

Plaintiff: The person who has a problem with someone else, and files a lawsuit to have a trial.

Defendant: The person who has to go to court to respond to the plaintiff.

Cargo: Goods people move so they can sell them. This can be food, clothing, wood, or other material.

Verdict: The jury's decision about which person wins.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Jacob S. Hurd,)	Civil No. 4:1856-cv-00012
)	
Plaintiff,)	
)	
vs.)	Trial in the Matter of the <i>Effie Afton</i>
)	
Rock Island Railroad Co.,)	
)	
Defendant.)	

Clerk: [Hit the gavel 3 times] All rise, the United States District Court is now in session for the case of Hurd v. Rock Island Railroad, the Honorable Judge McLean presiding.

Judge McLean: This is a case involving the crash of a steamboat into a new railroad bridge over the Mississippi River. First, we will hear opening statements from each side. Next, we will hear from witnesses. Finally, the lawyers will give closing arguments, and explain why their client should win this case.

The plaintiff will now begin. The exhibits are here for the lawyers to use.

H.M. Wead: May it please the Court, opposing counsel. We are here today because the railroad built a bridge over the Mississippi River. That bridge gets in the way and is a danger for boats going up and down the river. My client, Jacob Hurd, had a steamboat called the *Effie Afton*. When the boat tried to go under this bridge, there wasn't enough room, and it was forced to crash into the bridge. The

boat caught fire, and burned to ashes. My client is asking for \$200,000 in damages to cover the cost of his boat and his cargo. This will also punish the railroad for building a bridge that made travel dangerous.

Abraham Lincoln: May it please the court, opposing counsel. I represent the Rock Island Railroad, the company that built the bridge. This bridge was only open for two weeks before the crash that burned part of it down. We are here today to prove that this bridge is safe for boats traveling on the river. We think that Mr. Hurd crashed his steamboat into the bridge because he is **a bad pilot and cannot steer his boat well!** My clients also believe that Mr. Hurd may have crashed his steamboat into the bridge on purpose to damage the bridge! Mr. Hurd and the other steamboat owners and captains want to stop the railroad from using the bridge because they think it will hurt their business. Steamboats are slower than trains. If the railroad can build bridges like this, then the steamboats will lose business taking people and cargo across the river. The railroad is asking for \$75,000 to fix the bridge that Mr. Hurd damaged with his boat.

Judge McLean: The plaintiff may now call the first witness.

H.M. Wead: The plaintiff calls Captain Jack Sparrow to the stand.

Clerk: Raise your right hand. Is the testimony you are about to give the truth?

Captain Jack Sparrow: Yes.

Clerk: You may take the stand.

H.M. Wead: Please state your name and why you are here today.

Captain Jack Sparrow: My name is Captain Jack Sparrow. I am here today because I am **the best riverboat captain on the Mississippi River.**

H.M. Wead: Can you tell the court what it's like to try to steer your boat around a railroad bridge?

Captain Jack Sparrow: I know for a fact that having that dang bridge there makes it too hard to steer boats through that part of the river. The opening is too small, and you're always being pulled into the bridge by moving water!

H.M. Wead: As the best riverboat captain on the Mississippi River, in your expert opinion, is that bridge dangerous to all steamboats traveling on the river?

Captain Jack Sparrow: Yes it is! If we can't get by that dang bridge, we can't sell our goods. We'll all go broke!

H.M. Wead: No more questions.

Judge McLean: Mr. Lincoln, do you have any questions for this witness?

Abraham Lincoln: Captain Sparrow, has anyone but you or Attorney Wead called you the best riverboat captain on the Mississippi River?

Captain Jack Sparrow: No, but I've been a riverboat captain for almost 20 years. I've been working on boats a lot longer than that.

Abraham Lincoln: Have you ever run into a bridge when you tried to get past?

Captain Jack Sparrow: Well, no. I take good care of my boats.

Abraham Lincoln: No more questions.

Judge McLean: You may return to your seat, and the plaintiff may call the next witness.

H.M. Wead: The plaintiff calls Jacob Hurd to the stand.

Clerk: Raise your right hand. Is the testimony you are about to give the truth?

Jacob Hurd: Yes.

Clerk: You may take the stand.

H.M. Wead: Please state your name, and explain why you are here today.

Jacob Hurd: My name is Jacob Hurd and I was the owner and captain of the *Effie Afton* steamboat. I am here today because the Rock Island Railroad Company's bridge caused me to wreck my steamboat. The boat and part of the bridge burnt down.

H.M. Wead: Mr. Hurd, tell the court what happened the night of the crash. You may use the exhibits.

Jacob Hurd: Well, everything was fine until we got to that bridge. There just wasn't enough room for me to steer my boat under the bridge. *We all knew that trying to get around the bridge was gonna be a problem.* I tried my best. But the bridge changed the river's current. We got pulled into the current, and the boat crashed into the bridge. The crash knocked over a small coal stove I had on board and set my boat on fire, burning it to nothing but ash.

H.M. Wead: Mr. Hurd, why do you feel that the railroad bridge made you wreck your boat?

Jacob Hurd: Without the bridge, there was enough room for my boat to go up the river! **NONE** of these problems happened before that bridge went up! Riverboat people could easily move their goods for selling and trading. The bridge made it too dangerous for boats on the river. That stinkin' train was hauling all our passengers and goods!

H.M. Wead: Are you saying it was harder to ship goods because this bridge shown in the exhibits made it dangerous for steamboat captains to travel on the river?

Jacob Hurd: Yes, that's right. The bridge was just too dangerous.

H.M. Wead: No more questions.

Judge McLean: Mr. Lincoln, do you have any questions for this witness?

Abraham Lincoln: Mr. Hurd, isn't it true that other steamboats the same size as yours passed safely under the bridge without any problems?

Jacob Hurd: Well, yes, I guess so.

Abraham Lincoln: And isn't it true that during the warm spring month of May, you had a coal-burning stove on the deck of your ship, and when that stove fell over, that's what caught your boat on fire?

Jacob Hurd: Well, yes, but the fire would not have happened if I hadn't hit the bridge.

Abraham Lincoln: So, Mr. Hurd, the reason the bridge caught on fire is that the coal-burning stove on your boat fell over, and the fire spread to the bridge, destroying it. Is that correct?

Jacob Hurd: No, that's not what I said!

Abraham Lincoln: Mr. Hurd, did you make a claim against the Rock Island Railroad Company for the loss of your boat and its cargo?

Jacob Hurd: Well, yes! It was the railroad's fault I lost my boat and all the cargo! If the bridge had not been there, I'd still be in business!

Abraham Lincoln: I have no more questions, Your Honor.

Judge McLean: You may be seated. Does the plaintiff have any other witnesses?

H.M. Wead: No, Your Honor, the plaintiff rests.

Judge McLean: The defense may call a witness.

Abraham Lincoln: The defense calls Tracy Trainworker.

Clerk: Raise your right hand. Is the testimony you are about to give the truth?

Tracy Trainworker: Yes.

Clerk: You may take the stand.

Abraham Lincoln: Please state your name, and tell us why you are here.

Tracy Trainworker: My name is Tracy Trainworker. I was hired to build the railroad bridge over the Mississippi River between Davenport and Rock Island.

Abraham Lincoln: Were you given any special warnings about anything you should or should not do while building the bridge?

Tracy Trainworker: Yes. I was told to make sure the steamboats using the river could easily get under the bridge. I was told to make sure there was enough room for the boats to safely pass.

Abraham Lincoln: Were you given a lot of money to make sure the bridge was safe?

Tracy Trainworker: Yes. We paid for the best materials and the best workers.

Abraham Lincoln: No more questions.

Judge McLean: Does the plaintiff's counsel have any questions for this witness?

H.M. Wead: Yes, Your Honor. Tracy, isn't it true that, as a worker for the railroad, your main job was to make sure the bridge carried trains across the river?

Tracy Trainworker: Yes, but I was also told to make sure steamboats could travel safely.

H.M. Wead: Isn't it also true that you got extra money because you finished the bridge fast enough?

Tracy Trainworker: Yes, but I'm sure the bridge is safe.

H.M. Wead: No more questions.

Judge McLean: The defense may call another witness.

Abraham Lincoln: The defense calls bridge inspector Jessie Smith to the stand.

Clerk: Raise your right hand. Is the testimony you are about to give the truth?

Jessie Smith: Yes.

Clerk: You may be seated.

Abraham Lincoln: Please state your name, and explain why you are here.

Jessie Smith: My name is Jessie Smith, and I am the Director of the National Bridge Department. I inspected this railroad bridge.

Abraham Lincoln: In your expert opinion, would passing under that bridge be hard to do for an experienced riverboat pilot?

Jessie Smith: It would take some skill. But there were no safety problems in steering a boat under the bridge.

Abraham Lincoln: And how do you know that?

Jessie Smith: I looked at the plans. Then I inspected the bridge, traveling under it on a steamboat to see if it was safe. I found that the bridge was safe.

Abraham Lincoln: Did you inspect during the day or night?

Jessie Smith: It was during the day.

Abraham Lincoln: Would you say that this railroad bridge is important for hauling goods and passengers?

Jessie Smith: Oh, yes! The railroad bridge makes it faster and easier to cross the river, bringing goods and passengers from the east to the west. We have to keep up with the changing times.

Abraham Lincoln: Thank you. I have no more questions.

Judge McLean: Does the plaintiff have any questions for this witness?

H.M. Wead: Because this was the first bridge of its kind, you really can't say if it was safe for steamboat traffic, can you?

Jessie Smith: Well, it was the first railroad bridge over the Mississippi River, but it was just like other bridges that cross rivers with steamboat traffic.

H.M. Wead: You said that inspected the bridge during the day. So, how would you know if the bridge was safe to pass under at night, when the accident happened?

Jessie Smith: Well, I suppose you would have to have a ship deckhand with a lantern to guide you near the bridge.

H.M. Wead: So, in other words, sometimes it would not be safe for passage?

Jessie Smith: No, that's not true. You would have to use extra care when passing at night, but with your average crew, it can be done.

H.M. Wead: Are you a riverboat captain or have you ever steered a riverboat?

Jessie Smith: Well, no.

H.M. Wead: I have no more questions, Your Honor.

Judge McLean: You may return to your seat. Does the defense have any other witnesses?

Abraham Lincoln: No, Your Honor, the defense rests.

Judge McLean: Now that we have heard all the testimony, both sides will make closing arguments. The plaintiff will go first.

H.M. Wead: May it please the Court, opposing counsel. This bridge is a danger to all steamboats, and is not needed. The railroad does not have to cross our Mississippi River to move goods and passengers. Our riverboat captains and sturdy steamboats can do all that for us, just as they have for years. The railroad built a dangerous bridge that blocks the river, and gets in the way of our freedom to travel on the Mississippi River. Their bridge wrecked my client's steamboat. The railroad must pay for it! We are asking for \$200,000 to pay for the damage to the boat and to punish the railroad.

Judge McLean: The defense may now present its closing argument.

Abraham Lincoln: May it please the Court, opposing counsel. We must also remember that the railroad is important to the future of our country. Everyone has the right to cross the river, just as they have a right to move up and down it. The bridge is necessary to make sure that everybody and everything can get from the eastern to the growing western part of the country. This bridge was carefully built to make sure that traffic on the river would be safe. The bridge represents the rapid

progress of our great country. The steamboat owners and captains want to keep the railroad from having the bridge just because they might lose some business. Mr. Hurd steered his steamboat very badly. Maybe he even crashed it into the bridge on purpose. The railroad is not at fault for his bad piloting. In fact, Mr. Hurd owes us \$75,000 to pay for damages to the bridge.

Judge McLean: This case is now submitted to the jury for a verdict. If you decide that the crash was caused by the railroad company that built the bridge, you must award damages to Mr. Hurd. If you decide that Jacob Hurd caused the crash, then award damages to the defendant Rock Island Railroad.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Jacob S. Hurd,) Civil No. 4:1856-cv-00012
)
Plaintiff,)
)
vs.)
) **Verdict Form**
)
Rock Island Railroad Co.,)
)
Defendant.)

Choose only **ONE** of these two:

- We, the jury, find the crash was caused by the defendant, Rock Island Railroad, and we award the plaintiff, Jacob Hurd, damages in the amount of \$_____.

--OR--

- We, the jury, find the crash was caused by the plaintiff, Jacob Hurd, and we award the defendant, Rock Island Railroad, damages in the amount of \$_____.

Signed by: _____

Presiding Juror

Date: _____