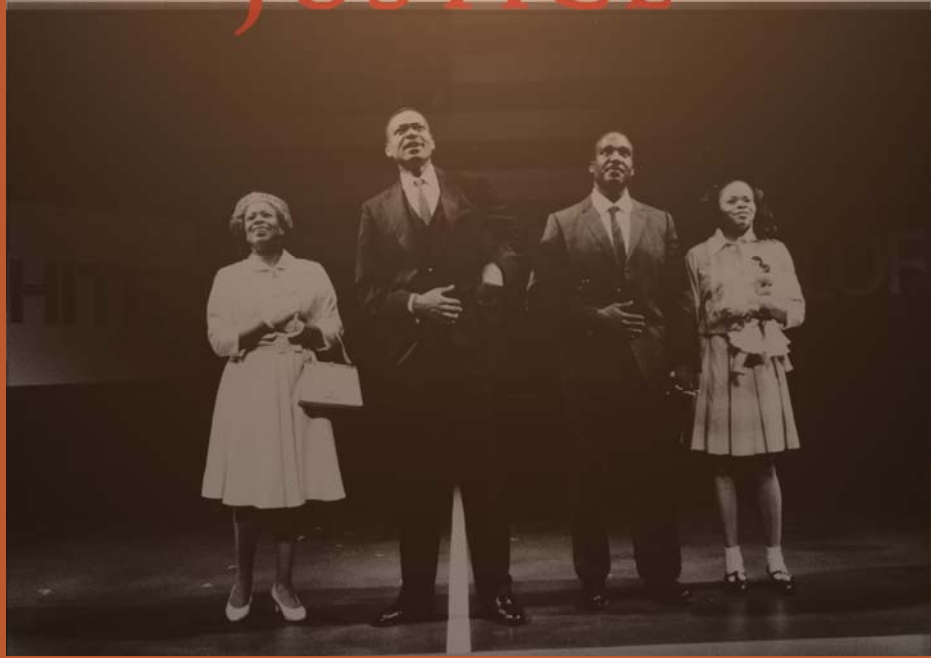


THE COLOR OF JUSTICE



**CSB/SJU Presents
the Theatreworks/USA
production of
The Color of Justice**

SHOW TIME for Teachers

Welcome to Show Time, a performing arts resource guide published by the CSB/SJU Fine Arts Education series. This issue of Show Time is designed to be used before or after a performance of *The Color of Justice*.

Suggested activities in this issue include background information and ideas for integrating the performance with several subject areas. The activities may be adapted to meet your classroom time and needs. Please feel free to copy pages in this guide as needed for student use.

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Introduction

Thurgood Marshall (1908-1993) may be best known as the first African-American to be appointed to the United States Supreme Court, but this was merely the crowning achievement to his illustrious career as a champion of the civil rights movement. In *The Color of Justice*, we see him in his role as prominent lawyer for the NAACP (National Association for the Advancement of Colored People) Legal Defense Fund, for which he fought many cases against discrimination and segregation, earning him the nickname, “Mr. Civil Rights.” The play describes the landmark 1954 case of *Brown v. Board of Education*, in which Marshall and the NAACP, on behalf of 13 families with 20 children in Kansas (and, by the time the case was heard in the U.S. Supreme Court, families in South Carolina, Delaware, and Virginia) challenged school segregation. To accomplish this, they had to disprove the doctrine of “separate but equal” which had prevailed since the 1896 *Plessy v. Ferguson* case, in which it was ruled that segregated railroad cars were not unconstitutional as long as they were “equal” to other cars.



THE COLOR OF JUSTICE
(L to R): Selena Nelson, Jonathan Earl Peck
photo by Jean-Marie Guyaux



The first case was heard in Topeka, Kansas from June 25th to June 26th 1951.

In the spirit of dramatic license, our story is a free adaptation of actual facts (the family: Grace, Ernest, and Marian Carter are fictional). The play focuses on young Grace Carter, who wants to go to the school just up the hill (the all-white school) instead of walking all the way through the railroad yard to another (all-black—referred to then as the “colored”) school. And she wonders why she and her classmates have to write thank you letters to the white students for their hand-me-down books and supplies, many of which are outdated or torn. All this finally leads her parents to contact Marshall and the NAACP Legal Defense Fund (which consisted of both black and white lawyers dedicated to the civil rights movement). They soon learn that it will be a longer fight than they thought. The play follows them from their first case in Topeka, which they lose, through their successive appeals, all the way to the U.S. Supreme Court. The judgment of this case proved to be a catalyst which brought new life to the civil rights movement.

Although the cast consists of six actors, students should know that, with the exception of the actress playing Grace Carter, each actor portrays a variety of roles which include Ernest and Marian Carter (Grace’s parents); Grace’s friend Jane and other classmates; the school superintendent, Bradley O. Edwards; another lawyer for the NAACP, Jack Greenberg; the opposing lawyer for the U.S. Supreme Court case, John W. Davis; and various judges and justices (the Supreme Court is represented by one judge, Justice Warren, his eight colleagues suggested by a backdrop depicting their silhouettes).

The play *The Color of Justice* is a fictional account of one episode in the struggle of Afro-Americans to obtain equal treatment under the law. *The Color of Justice* is a drama, and the names, characters and incidents portrayed in the play are fictitious, and any resemblance to actual persons, living or dead, or to actual events, is entirely coincidental.

Theatre

What is theatre?

Theatre is a form of art. Usually it is presented on a stage to an audience. Actors tell the story to the audience using costumes, props, sets, lighting and their voices and bodies.

As the colonies separated from Britain, a distinctly new style of American theatre gradually developed. Theatre in America has prospered ever since with the development and growth of theatre and touring theatrical groups throughout the nation.

Are there different types of theatre?

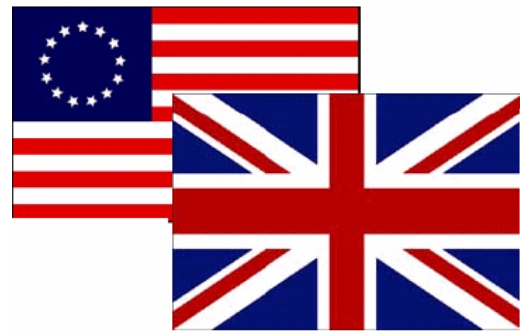
Yes, there are many different types of theatre. These are just a few: drama, comedy, musical theatre, experimental, and improvisational.



Colonial America

When did theatre first appear in America?

When British colonists began arriving in America in the 16th century, they brought with them a tradition of English theatre. Theatre had been very popular in Europe since the dramas of ancient Greece. Theatre provided a diversion from the hardships of daily life in the new colonies and often provided a forum for the colonists to voice their disapproval with the English rule.



American Colonial Flag and British Flag

Theatre Terms to Know

Director

The person who “blocks” the show, meaning he/she tells the actors where to stand, when to move, etc. The director is in charge of rehearsal and is responsible for pulling all aspects (actors, music, set, properties) together, so that the play is complete.

One-act play

Plays are made up of acts, which divide the story into parts; most plays are two or three acts and between them, there is an intermission, or break. A one-act play is only one act and therefore is a shorter play with no breaks.

Properties

Better known as “props,” these are usually smaller set pieces that complete the set’s look, like furniture, pictures on the walls, rugs, the fishing rods, etc. Technically, the actors are considered as props too.

Scenery

Better known as the “set,” scenery refers to the drops, draperies and pieces that give the audience a visual sense of the story.

Stage Manager

Is the person responsible for actually “running the show.” The stage manager is in charge of making sure the actors, the set, and props are in place. The stage manager also “calls the show,” which means he/she tells the people running lights, curtains, etc. when to do their job during the play.

Thurgood Marshall



Supreme Court Justice Thurgood Marshall

Thurgood Marshall is most often remembered for his great triumph in the case of *Brown v. Board of Education of Topeka, Kansas*. In 1933 he graduated with honors from Howard University Law School. Marshall began working for the NAACP in 1934. Specializing in civil rights cases for the Baltimore Branch, Thurgood Marshall earned little money but a lot of respect. After his success at the Baltimore Branch, Marshall took the position of Deputy Assistant Special Counsel for the National Branch of the NAACP in 1936. As the chief legal officer for the NAACP, Marshall won his first major case in the United States Supreme Court in the case of *Gaines v. University of Missouri*.

In 1952, Marshall again appeared before the United States Supreme Court. This time his intention was to earn a victory in the historical case of *Brown v. Board of Education of Topeka, Kansas*. He did indeed earn this victory on May 17, 1954. This was perhaps his greatest victory. Marshall would continue on to argue thirty-four cases before the United States Supreme Court, winning twenty-seven of them.

President Kennedy appointed Marshall to the Second Circuit Court of Appeals in New York in 1961. In 1965, President Johnson appointed Marshall to the position of Solicitor General, then in 1967 Thurgood Marshall became the first African American to be appointed to the United States Supreme Court. While serving on the Supreme Court, Marshall suffered a heart attack, blood clots, glaucoma, bronchitis, hearing loss, and pneumonia, but refused to give in to any of these illnesses. He took his lifetime appointment to heart and refused to resign. On June 27, 1991, Marshall changed his mind and resigned. He died in January of 1993 at the age of 84 and was buried in Arlington National Cemetery.

Chief Justice Earl Warren



Chief Justice Earl Warren

Earl Warren was born on March 19, 1891 in Los Angeles, California. In 1908, Warren attended the University of California at Berkeley. He became the Assistant District Attorney for Alameda County, California in 1919. Earl Warren married Nina Elizabeth Meyers and was elected District Attorney for the state of California in 1925. By 1938, Warren was elected Attorney General of the state of California. Once elected to the position of Governor of California in 1942, he continued to win elections thereby becoming the only Governor in the history of California to be elected to office three times. In the wake of all this success, Warren ran unsuccessfully for Vice President, with Thomas Dewey, as the presidential candidate in 1948.

President Dwight D. Eisenhower appointed Justice Warren to the Supreme Court in 1953. Warren was the chief justice at the time of the case being presented in the *Color of Justice*. On May 17, 1954, Warren was part of the decision that “separate but equal” had no place in the schools. This decision in the case of *Brown v. Board of Education of Topeka, Kansas* was a unanimous decision in favor of integration in the public schools. Justice Warren continued on the Supreme Court being involved in many landmark court cases until he resigned in 1969. He died at the age of 83 on July 9, 1974 and was buried with full honors in Arlington National Cemetery.

Brown v. Board of Education

The ruling as read by Chief Justice Earl Warren in 1954:

“School segregation by state law causes a feeling of inferiority in black children that inflicts damage to their hearts and minds that may never be undone. Public school segregation by state law therefore violates the equal protection clause of the 14th Amendment...The old Plessy “separate but equal” rule is herewith formally overruled.”

At the time of this decision, seventeen states in the south and southwest had separate school systems for educating black and white children. This ruling was reached after a long, hard struggle fought for by Oliver Brown, his daughter, Linda, and Thurgood Marshall.

It was Brown’s daughter who desired to go to the white school, and who questioned the reasons why she always had to thank the students from the white schools for the old, beat-up textbooks that the black school received when the white students received new textbooks. Brown, determined to make a difference, received the help of the National Association for the Advancement of Colored People (NAACP).

As legal counsel, Thurgood Marshall argued the case all the way to the United States Supreme Court. Although the ruling determined that “separate but equal” was unconstitutional under the 14th Amendment, changes were not immediate. Many states dragged their feet as long as possible since the ruling called for change to be carried out “with all deliberate speed.” By not giving a specific time schedule, there was room for interpretation of “all deliberate speed.”



Nettie Hunt and her daughter, Nickie, sit on the steps of the U.S. Supreme Court in May 1954

The Legal System

The way in which we enforce our laws can be even more important than the laws themselves. The word judiciary comes from a Latin word meaning “judge.” The reasons the United States has created a judiciary system are: to make sure the laws are being followed by all citizens; to interpret the laws that have been made by the lawmakers; and to punish those people who are found guilty of breaking the laws.

Federal Courts

Any case, which involves interpreting or explaining the United States Constitution, is tried in a federal court. There are three levels of federal courts.

United States District Court

This is the lowest level of courts in the federal system. There are 94 U.S. District Courts throughout the United States and its territories.

United States Court of Appeals

Eleven courts exist at this level. Cases tried in the U.S. Court of Appeals must be heard by at least two judges. This level of court exists so that one may have his/her case heard again if he/she feels the first ruling was unfair.

United States Supreme Court

As the most powerful court in the nation, all decisions made by the United States Supreme Court are final. The court is composed of eight justices and one chief justice. These justices are appointed by the President of the United States and require the approval of the Senate in order to receive the position. Supreme Court Justices remain in office for life.



State Courts

Frequently cases exist which have nothing to do with the interpretation of the United States Constitution. These cases are heard in the state courts.

Minor Court

This is the lowest level of court in the state system. The Minor Courts hear cases dealing with everyday problems. Cases which may be heard may deal with traffic violations or domestic problems.

State General Trial Courts

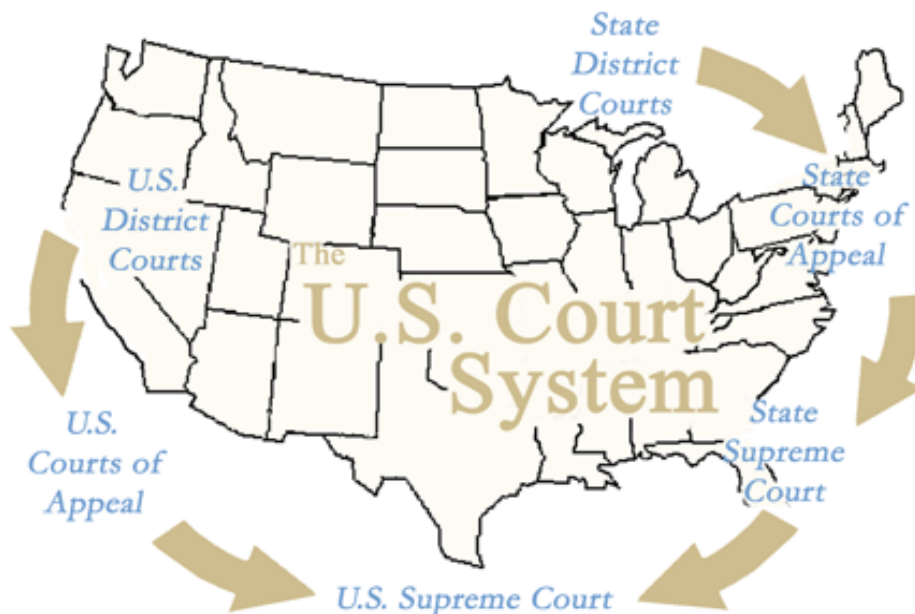
Most of the business that occurs in courts occurs at this level. Criminal cases, settlements of estates, and guardianship cases are heard at this level.

State Court of Appeals

Once again, a level of courts is present so that one may have a case dealing with an unjust decision reheard.

State Supreme Court

The final decision is frequently made in the State Supreme Court. If the case deals with state laws or the state constitution, there is no further court for the trial to be heard. The United States Supreme Court may only overrule a State Supreme Court if the decision goes against the United States Constitution.



How the legal system operates

Vocabulary List/ Concepts for Understanding

Appeal (legal) –When a decision has been made in a lower court, to take it to a higher court in the hopes of getting a different decision.

Argument (legal) –Remarks addressed to a judge or jury on the points of the case and/or the law.

Attorney –An agent qualified to represent a client in legal proceedings, such as a trial. (Synonym: lawyer)

Circumstances – Facts that indicate the probability or improbability of an action or event.

Client – The person who requests help from a lawyer to defend or advise him/her in a legal matter.

Closing Argument – A summary by the lawyers of the evidence presented in an attempt to point to the evidence not shown by the opposition.

Counsel – Someone who gives advice in a legal matter, i.e. lawyer, attorney, or counselor.

Court –The place where justice is administered.

Court Clerk – Person who organizes and keeps all files on record of the cases the judge hears.

Cross-Examination –The questioning of a witness that has already been questioned by the lawyer representing the other side of the case.

Defense/defendant –The person or organization who must answer a charge being made against them.

Deliberate speed (legal) –As soon as possible, as in the case of school integration, it was ruled that there could be no unnecessary delays.

Denied/dismissed –As in “case denied”—the rejection of an appeal.

Equal protection of the law –The concept that all people should be treated equally in the eyes of the law, added to the U.S. Constitution as the 14th Amendment in 1868 to ensure equal treatment of former slaves.

Evidence –The information or objects that are presented in the case as proof of a fact.

Integration –To end the separation of two groups of people, as in school integration.

Judge –The person appointed to make (or oversee, if there is a jury) decisions in a trial; in some courts, such as the U.S. Supreme Court, called *justices*.

Jurisdiction –The limits or territory in which a law applies.

Jury –A group of people chosen by the lawyers from both sides to consider the evidence and determine the truth of the case. They are sworn to follow the laws and the evidence presented in an attempt to reach a just decision.

Justice (legal) – Formal title given to judges.

Justice (concept) –The administration of what is morally or legally right.

Ku Klux Klan (KKK) –A white supremacist group that often uses violence against minority groups (known for disguising their identities with white hoods and gowns).

Legal defense fund –A fund set up by an organization in order to fight legal cases for their members free of charge (*pro bono publico*).

Legislators – The people who make the laws such as members of the Senate or House of Representatives.

NAACP –Abbreviation for the *National Association for the Advancement of Colored People*—a group founded in New York in 1909 to address issues of discrimination against African-Americans.

Plaintiff –The person (or group) who initiates a lawsuit.

Pledge –Promise or vow.

Polygraph –A scientific device that determines whether or not a person is telling the truth.

Prosecute –To bring someone to trial to obtain a conviction.

Racism –A belief that some races are superior to others, or discrimination based on that belief.

Rebuttal –In a trial or debate, the reply to an argument, which attempts to disprove it.

Segregation –The separation of two or more groups, often based on race; *de facto* segregation refers to the separation imposed not by law, but by common practice (*i.e.*, a municipality where white children go to one school and

African-American children to another because their neighborhoods are separate and there is no mandatory cross-district busing).

Sentence –The punishment decided upon by the judge or jury in regards to the crime.

“Separate but equal” –The idea that segregation was not illegal, as long as separate facilities were equal, as in the 1896 *Plessy v. Ferguson* case of segregated railroad cars.

Subpoena –An order to appear in court to give testimony regarding a certain case.

To sue, suit, lawsuit –To seek justice or a right by pursuing legal action.

Testimony –Evidence given by a witness while under oath to tell the truth.

Unanimous –Describes a vote, such as by a jury or a group of justices, in which all members agree.

U.S. Supreme Court –The highest court in the U.S., where cases are given their final appeal.

Verdict –The decision made by the jury in regards to the case.

Versus (*abbrev. v. or vs.*) –Against, as in *Brown v. Board of Education* or *Mets vs. Red Sox*.

Witness –In a trial, an individual who gives his or her version of the case, making a statement or answering questions put by lawyers or judges.

Before Seeing the Play

1. Review the vocabulary list, or cover the definitions and assign small groups of students' different parts of the list and have them present their findings to the class. Pay special attention to the many legal terms.
2. Discuss the concepts of *segregation* and *integration*. What were American schools like before the 1950s? Were they different in various parts of the United States? How would students feel if they were told they had to be in a different class because they have brown or blue eyes, or red hair, or some other physical attribute?
3. Discuss the various people involved in a trial -- *lawyers, witnesses, judges, etc.* Use famous cases in recent history as examples. If possible, watch a portion of a real trial on film (on Court TV, or the equivalent, or a film such as *Twelve Angry Men* or *To Kill a Mockingbird*) or read about a famous trial.
4. Explain the process of *appeals*. How does a case that is lost in the "lower courts" go on to "higher courts," and eventually to the highest, the United States Supreme Court?
5. Have students recite the Pledge of Allegiance, then write it (or have students each write a line of it) on the board. We all recite it automatically, but what does each line really mean? Tell students to listen for the different version recited in the play.

Note to teachers: Since the phrase "under God" was not added to the pledge until late 1954, for the sake of historical accuracy, it is not used in the pledge heard during the play. You may wish to explain this to your students, either before or after the play.

After Seeing the Play


1. Discuss the theatrical elements of the play. How did the set design, costumes, incidental music, etc., enhance the story? (The set has black/white symbolism; the incidental music helps to convey a mood, etc.) In addition to costume changes, how did the actors who played more than one role “change themselves” into different characters?

2. Why does Grace Carter want to go to a different school? What happens to make her father, Ernest Carter, contact Thurgood Marshall in order to challenge school segregation? What does Marshall hope to accomplish by winning this case?

3. Why does Marshall tell the people at the church the story of Homer Plessy and the railroad car (which led to the *Plessy v. Ferguson* trial)? How does the *Brown v. Board of Education* case challenge the earlier case’s legacy—concept of “separate but equal”? What effect did the *Brown* judgment have on the earlier ruling?

4. What risks were the Carter family taking by pursuing this case? Compare the Carters to Jane’s family, who believe that people should be happy with “things just the way they are” and that they shouldn’t “make trouble.” Can you think of other people in history who took risks for their beliefs in order to change things?

5. How do you think the series of trials affected 9½ year old Grace Carter? What things were most important to her? Do you think that she understood all of the ramifications of her case?

 *Writing Exercise:* As Grace Carter, write a letter to Thurgood Marshall asking him for help. Explain why you think you and your friends should be able to go to your neighborhood school. (Older students, remember you’re only in grammar school.)

6. Compare the characters of Thurgood Marshall, School Superintendent Edwards, and John W. Davis (the opposing lawyer in the Supreme Court case). What motivates each of them? What techniques do each of them use in order to get what they want? Although Marshall was arguing against John Davis, why was he still able to respect Davis as a lawyer?

7. Discuss the scene in which Marshall asks Grace which of two dolls she prefers (based on a study in the 1950s by Dr. Kenneth Clark). Why did Grace get upset when he asked her which doll she most resembled? What point is Marshall trying to make to Grace and her parents?

8. Discuss the way that Marshall used the Fourteenth Amendment (providing that a state cannot “deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws”) to prove his point. What events led to this amendment to the U.S. Constitution in 1868?

9. In his opening argument, Marshall says that his clients and “the entire colored race” are “craving light.” What does he mean by this (what does “light” symbolize)?

Research Topics for Older Grades

1. **Thurgood Marshall.** Before the *Brown v. Board of Education* case, what other cases did Thurgood Marshall take on for the NAACP? What other significant cases did he argue after the 1954 *Brown* judgment? What was his voting record like as a justice on the Supreme Court?

2. **Integration.** How was the *Brown v. Board of Education* decision received by the public? What measures were taken to enforce it? How did it lead to other controversial practices, such as “busing”? What other significant cases were being argued preceding and/or following it (for example, the integration of all-white colleges and law schools). Does segregation still exist in the U.S. today?

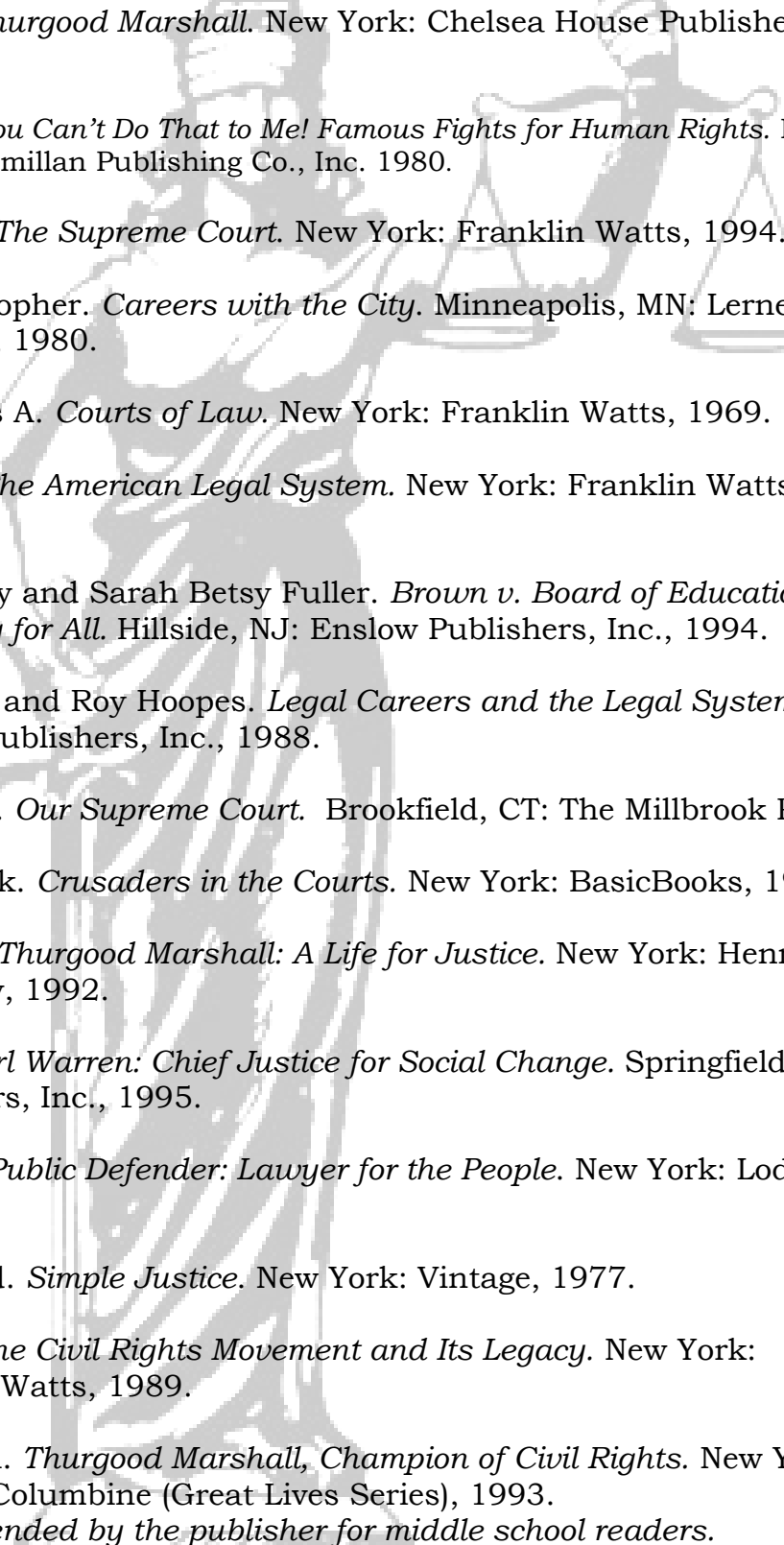
3. **The Civil Rights Movement.** How did *Brown v. Board of Education* influence the Civil Rights Movement in the United States? Make a time line tracing the movement’s progress both before and after this decision, including such events as *Plessy v. Ferguson*, protests and “sit-ins,” the Montgomery bus boycott, and the 1963 March on Washington. Compare this movement to other struggles for equal rights: women’s rights (including the lobby for the ERA—Equal Rights Amendment and, most recently, female students suing for the right to attend the Citadel), the struggle against apartheid in South Africa, the gay rights movement, the protest in China’s Tiananmen Square, the Russian resistance in the former Soviet Union, etc.

4. **NAACP - Then & Now.** When was the National Association for the Advancement of Colored People founded? What other goals has the organization accomplished over the years? What is the NAACP currently focusing on? Have its goals changed since its inception? Compare the approach of the NAACP to racial issues to that of individuals such as Jesse Jackson and Louis Farrakhan.

5. **Racial Supremacist Groups.** Research groups responsible for “hate crimes,” such as the Ku Klux Klan, the Nazis of Adolph Hitler’s time (and more recently, the “Neo-Nazis”), anti-Israeli/anti-Arab terrorists, anti-Muslim groups in Bosnia, etc. What motivates these groups to such extreme hatred towards a particular racial and/or cultural group? What can be done to control these groups?

6. **The United States Supreme Court.** What prominent cases are currently (or most recently were) being heard in the U.S. Supreme Court? Which judgments, like *Brown v. Board of Education*, overturned a major decision in the lower courts? Choose a current case and stage a mock session of the Supreme Court, with students playing the roles of plaintiffs, lawyers, justices, etc.

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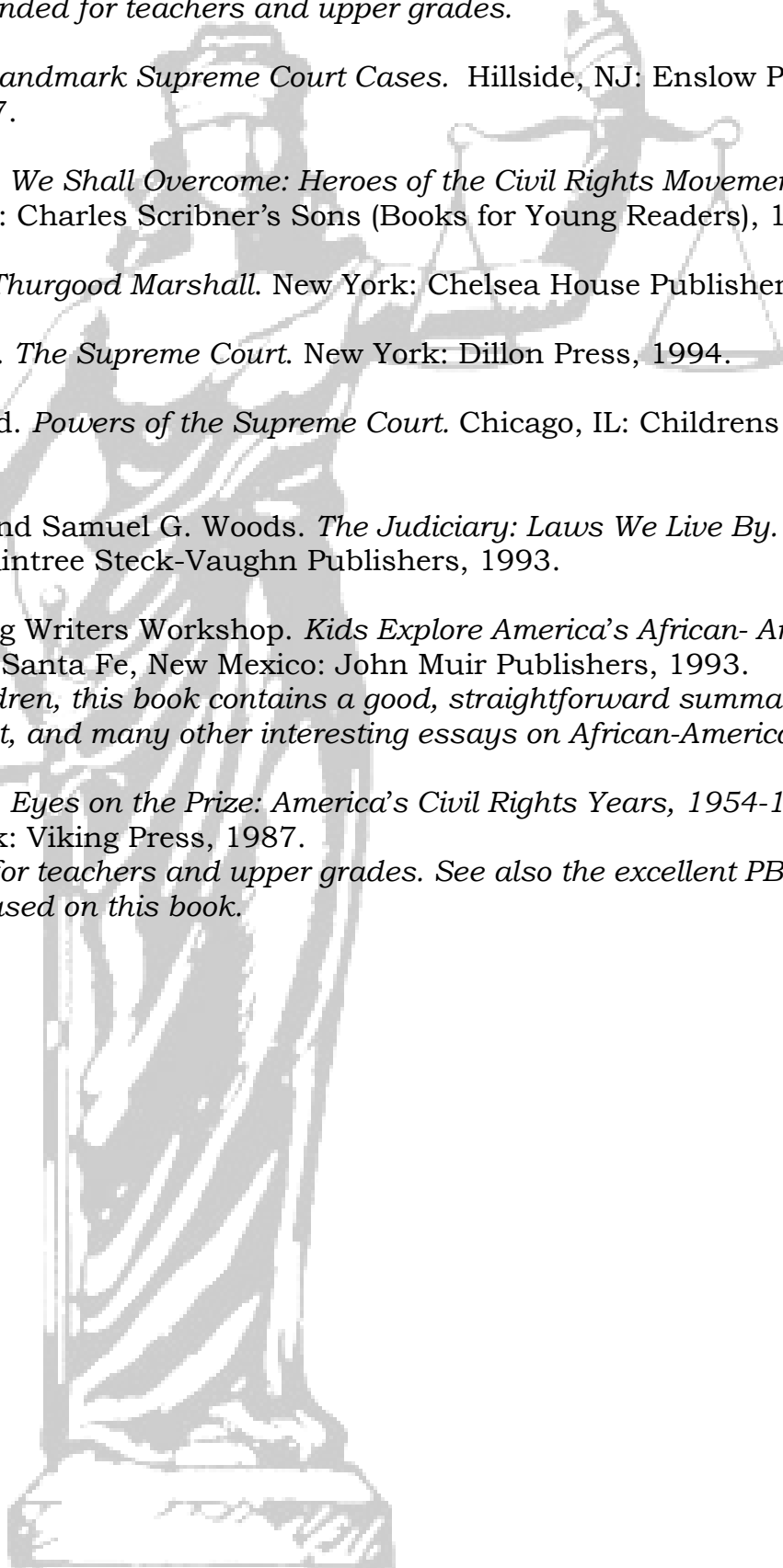
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Written by children, this book contains a good, straightforward summary of the civil rights movement, and many other interesting essays on African-American history.

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Recommended for teachers and upper grades. See also the excellent PBS documentary based on this book.





Theater Etiquette

Each year, thousands of teachers, students, bus drivers, and parents take part in CSB/SJU's Fine Arts Education Series. Please review the **LOOKING and LISTENING** information below with your students to help make your theater experience the best it can be.

LOOKING and LISTENING

Attending a live performance of *The Color of Justice* will be interesting and enjoyable for everyone if you remember to...

- ~watch for facial expressions to help you understand what the actors are feeling.

- ~listen in order to understand the communication between the actors

The performers in *The Color of Justice* need help from you, the audience. You are an important part of the play. Being an audience member in a theater is different from watching a movie or television show. The performers are in the same room with you and are affected by what you do. To do their best, the performers need you to watch and listen closely. Audience members also depend on your quiet attention during the performance so that they can enjoy their theater experience as well.

Please review the **PROCEDURES** information below to help your theater visit go smoothly.

PROCEDURES

- ~Please bring a minimum of one adult chaperone for every fifteen students.

- ~Please remind chaperones that the theater etiquette they model speaks volumes to your students.

- ~Prepare your students to enter the theater in single file in order of seating.

- ~Position your chaperones to maximize adult supervision of your group.

- ~Please wait until your whole group is seated before making trips to the rest room. Then students may go in small groups with the teacher's permission.

Younger students making trips to the rest room will need to be chaperoned.

- ~The theater is a food, gum, drink, radio, camera, tape, and video recorder free zone!

- ~Please leave inappropriate behaviors behind when visiting the theater.

- ~Please remain seated following the performance. Your group will be dismissed from the theater by a Fine Arts Programming staff member.

Enjoy The Color of Justice!

This study guide was adapted from materials provided by TheatreWorks/USA and designed by *Alison Guessou CSB '08*.