

Book Review

A Trial By Jury, by D. Graham Burnett; 183 pp. New York:
Alfred A. Knopf, 2001, \$21.00

In February 2000, D. Graham Burnett, intellectual historian and author of Masters of All They Surveyed: Explorations, Geography and a British El Dorado (Chicago: University of Chicago Press, 2000), was called for jury duty in New York City. He was assigned to a trial involving murder, cross-dressing and fluid sexual identities. Out of this potentially salacious material, Burnett has fashioned a sober, engaging, and reflective narrative that is at once both an instructive insight into the workings of the American jury system, and an often humorous - though nevertheless revealing - account of an intellectual's encounter with public life. What is particularly compelling about this last aspect of Burnett's narrative is the exemplary manner in which he is able to reconcile his academic training with his public duties, to the benefit of both the trial, and his account of it.

Wisely Burnett tells us the outcome of the trial at the beginning of the book: the defendant is acquitted. In

this way he avoids the potential distraction of a 'whodunnit,' replacing it with a much more interesting and revealing brand of suspense: a 'whytheydunnit.' Indeed, so gifted is Burnett as a narrator that even though we know the outcome, we nevertheless feel his frustration - as jury foreman - with the disparate personalities in the deliberations: personalities that suggest that a verdict will never be reached. Although Burnett paints a picture of himself as a slightly aloof, somewhat fastidious individual - he notes that he has worn a tie every day since grammar school - he manages to avoid the academic's natural pomposity in dealing with non-academics. It helps perhaps that - somewhat strangely - there is another intellectual historian on the jury, but even a member of the panel whom he admits to loathing by the trial's end is treated fairly by Burnett, both as narrator and foreman. This fairness does not, however, preclude Burnett taking an active stance in his foreman's duties. Indeed, his account of how he managed to bring the last few waiverers around to the 'not guilty' verdict is one of the most compelling parts of the narrative. His ability - as foreman - to synthesize the multiple perspectives on the events in question into a final verdict, whilst simultaneously respecting those perspectives is also reflected in

Burnett's more academically minded reflections on the trial.

Burnett's book is in that most postmodern of formats: a narrative. Whilst he is clearly neither a postmodernist nor a poststructuralist, he shows an admirable intellectual openness, and a capacity for self-effacement, when he reveals his surprise at the relevance of certain off-shoots of these traditions - Queer Theory in particular - to the events of the trial (p.56-57). What is particularly admirable about this recognition is that whilst noting the relevance of this theory to the proceedings, Burnett does not abandon his critical faculties. He is able to incorporate the theory into his intellectual toolkit without becoming caught-up in its excesses. In his final speech to the jury he is similarly able to use an argument about the ubiquitousness of state power that would have made Foucault proud - its power to regulate where the jury members could meet, to whom they could talk, even when they could go to the bathroom (always accompanied by a guard) - to show that the all-powerful state had failed to prove the case against the defendant on its own standard of reasonableness. It is in instances like these that Burnett shows how academic pursuits can meld with the demands of

public life to produce useful outcomes. In recalling his "manic delight" at being asked whether he, as a juror, would hold the state to an "unreasonable standard" (p.27), Burnett, noting that there was "No time to pontificate, to remonstrate, to hold a seminar" and that his "ponderous classroom musings on Pascal and the Enlightenment were not welcome" (p.27), also shows us that in order to be useful, academics must also make some concessions to practicality.

Burnett's book has produced praise from the legal profession and from jury-advocates for revitalizing interest in the jury system - indeed, so compelling is the narrative that one feels a movie starring Matt Damon cannot be too far away - but its real interest for academics may be in showing that it is possible to function in public life without giving up one's scholarly rigor. He shows us that it is possible to be an intellectual in a public forum, be it the jury room or the world of popular publishing, without playing up to the Academy, or talking down to the masses.

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