“A Wholesome Verdict:”

Using Historical Empathy Strategies to Analyze Elizabeth Jennings v. The Third Avenue Railway Company

Katherine Perrotta

On a hot July day in 1854, 24-year-old schoolteacher Elizabeth Jennings, accompanied by a friend, attempted to board a horse-drawn trolley to attend Sunday church services in Lower Manhattan. The Irish conductor refused, telling Jennings, who was African American, to await a horsecar for “her people.” When Jennings resisted, the conductor and a nearby police officer physically ejected her. Elizabeth Jennings reported her ordeal to her father, prominent entrepreneur and abolitionist Thomas L. Jennings, and to her church congregation. Her testimony was published in local newspapers, where she stated that the conductor “took hold of me and I took hold of the window sash and held on; he pulled me until he broke my grasp…. I screamed murder with all my voice.” The conductor “tauntingly” told Elizabeth to get “redress” if she could. So she did.

Thomas Jennings appealed to the Legal Rights Association, of which he was a co-founder, to raise funds for representation. Future U.S. President Chester A. Arthur, of the firm Culver, Parker, and Arthur, signed on as Elizabeth Jenning’s attorney against the Third Avenue Railway Company. In the New York Supreme Court, in February 1855, Arthur argued that the Third Avenue Railway Company violated Elizabeth Jenning’s “common carrier rights,” which stipulated that transportation conveyances were “bound to carry all persons if sober, well-behaved, and free from disease, [and] had the same rights as others; and could neither be excluded.” The judge instructed the jury that the company was liable “for the acts of their agents,” and the jury awarded Jennings a $250 settlement (half of what she sued for). As a result, the Third Avenue Railway Company, as well as other trolley companies in New York City, reversed their segregation ordinances.

Elizabeth Jennings’s story is a powerful example of activism for racial equality in antebellum America, yet there was barely a “thumbnail sketch” about her in history books, noted African American historian John H. Hewitt. Thirty years after Hewitt wrote about Jennings, contemporary scholars, authors, and educators are finally taking notice of her role as a nineteenth-century civil rights figure. This overdue attention is encouraging because many historical narratives often focus on extraordinary civil rights figures with little attention to the actions of ordinary citizens such as Elizabeth Jennings. These lesser-known historical narratives can serve as powerful tools for engaging students in historical empathy.

Historical Empathy

Historical empathy refers to the process in which students examine primary and secondary sources to (1) identify historical contexts, (2) explain the perspectives of historical figures, and (3) make affective connections to historical content while...
evaluating how the past and present differ. Historical empathy is not simply the act of students imagining what life was like in the past. Moreover, historical empathy is not encouraging sympathy for people and groups who committed terrible acts, nor does it involve presentism with regard to understanding the past based solely on today’s terms. Rather, historical empathy involves both cognitive and emotive acts in which students analyze documents to determine how the past and present differ, how historical context impacted the perspectives of people in the past, and why examining the role of ordinary citizens such as Elizabeth Jennings is significant, by making relevant connections to experiential knowledge and civic life.

To promote historical empathy, teachers should explore frameworks that emphasize inquiry of historical contexts and perspectives through primary and secondary source analysis. For example, Colby’s Historical Narrative Inquiry Model is a five-step process of implementing historical empathy strategies that involve students’ (1) activation of prior knowledge, (2) reading secondary sources to establish historical context, (3) analyzing primary sources to gain perspectives of past people, (4) displaying findings from primary and secondary source analysis, and (5) debriefing what was learned, inquiring about additional questions, and discussing connections to experiential knowledge or the experiences of others.

Similarly, the inquiry arc of the College, Career, and Civic Life (C3) Framework supports the inquiry process of fostering historical empathy by (1) developing questions and planning inquiries, (2) applying disciplinary tools and concepts from the social studies content areas (civics, history, geography, economics), (3) evaluating sources and using evidence, and (4) communicating conclusions and taking informed action. I align Colby’s five-steps with the C3 Inquiry Arc by underscoring the process of activating prior knowledge, providing multiple primary and secondary sources, and designing learning activities that drive inquiry of the compelling question—the big idea and essential understandings of the role ordinary citizens such as Jennings played in the struggle for equality in United States history.

To assess the affective aspects of historical empathy, I adapted Lee and Shemilt’s five-level framework because their rubric provides a range through which to measure student demonstration of historical empathy. Since completing my dissertation, I updated this rubric to better align with the C3 Framework Inquiry Arc and to measure cognitive and affective elements. The five-level framework rubric includes:

- **Level 1.** Students view the past as inferior and resort to stereotypes. Primary and secondary sources are not used to understand historical contexts or to make relevant affective connections to content;
- **Level 2.** Students use some primary and secondary sources to make generalizations about historical context and perspectives and make vague affective connections to content;
- **Level 3.** Students use primary and secondary sources to identify historical perspectives and contexts with some explanation of how the past and present differ, and provide some relevant affective connections to content;
- **Level 4.** Students use primary- and secondary-source evidence to explain how people in the past made decisions based upon the times they lived; describe how the past and present differ without a presentist lens; make several affective connections to content;
- **Level 5.** Students demonstrate all criteria in the previous level, plus explain how they can take informed action about an issue in the present.

**Learning Activities**
The following activities, which can be adapted for varying grade levels, are designed to be carried out over several class periods. They are modeled on the Inquiry Design Model Blueprint, with questions, tasks, and source analysis focused on *Elizabeth Jennings v. Third Avenue Railway Company.*

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**Big Idea:** Equality  
**Compelling Question:** Is it ever O.K. to break a rule or law?  
**Essential Understandings:** Ordinary citizens played integral roles in challenging laws and rules in order to gain civil rights and equality throughout United States history.

**Learning Activity #1: Activating Prior Knowledge and Setting the Stage**
Teachers will set the stage by asking students to brainstorm definitions of “civil rights” and “equality.” Next, ask students: “Can ordinary citizens play a role in civil rights movements? If so, how? If not, why?” Invite students to deliberate why some people are famous historical figures while others are not. After this discussion, ask students whether or not they have heard of Elizabeth Jennings; if they have, students can discuss Jennings’s role in the civil rights movement; if they have not, students can discuss who they think she was and what role she may have played in the struggles for equality. These questions can establish a foundation for students to examine how ordinary citizens like Elizabeth Jennings played important roles in resisting racial discrimination throughout U.S. history.

**Learning Activity #2: Secondary Source Analysis**
Next, invite students to read secondary sources that will establish their understanding of the historical context in which Elizabeth Jennings lived. Laura Sassi’s “Elizabeth Jennings Takes a Stand,” in *Highlights Magazine* and Beth Anderson’s book *Lizzie Demands a Seat* (Calkins Creek, 2004) help younger students get a sense of life in the United States, particularly New York City, during the 1850s. Amy Hill Hearth’s *Streetcar to Justice* (Greenwillow Books, 2018) provides a more detailed biography of Jennings and includes socio-economic and political factors appropriate for upper elementary and middle school students. Jerry Mikorenda’s book *America’s First Freedom Rider* (Lyons Press, 2020) will help high school students analyze the biographies of Jennings and Chester A. Arthur, and the contexts in which they lived. Provide students with graphic organizers to read and record pertinent information from these secondary sources.

**Sample Graphic Organizer for Learning Activity #2**

Directions: List the author, title, and date of the secondary sources about Elizabeth Jennings. Read the text and complete the chart. Answer the reflection questions in at least one complete sentence.

<table>
<thead>
<tr>
<th>Author(s), title, date</th>
<th>Where and When did the Events Take Place?</th>
<th>Who are the Main People and Events Highlighted?</th>
<th>What is the Point of View of the Author(s)?</th>
<th>What kind of Evidence did the Author(s) provide?</th>
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**Reflection:**

1. What information from the text gave you insight into the historical context at the time of the Jennings ejection and lawsuit?

2. What information gave you insight into the perspectives of people involved at the time?

3. After reading the text, do you think it is ever O.K. to break a rule or a law? Explain.
**Learning Activity #3: Primary Source Analysis**

Have students analyze document-based questions about Elizabeth Jennings's trolley expulsion and subsequent court case to gain insights into the perspectives of those involved. *The New York Daily Tribune, The Brooklyn Daily Eagle, The Pacific Appeal,* and *Frederick Douglass' Paper* were among the prominent newspapers that reported on Jennings's case. Have students read the newspaper excerpts that focus specifically on the published accounts of Jennings's testimony, the court proceedings, and editorial responses to her verdict. After students read these documents, have them complete a graphic organizer to record information that explains the contexts and perspectives of those involved.

Directions: Using information from the following documents, and complete the chart.


<table>
<thead>
<tr>
<th>Document Author, Title, Date</th>
<th>What is the Document About?</th>
<th>Point of View of Author</th>
<th>Similarities between Perspectives of Authors</th>
<th>Differences between Perspectives of Authors</th>
</tr>
</thead>
</table>

**Reflection:** Answer the following questions in at least one complete sentence.

1. What information gave you insight into the historical context at the time of Elizabeth Jennings's trolley ejection and lawsuit?
2. How did you feel after reading these documents? What connections can you make to the Jennings event and lawsuit?
3. After reading these documents, do you think it is ever O.K. to break a rule or a law? Explain.
OUTRAGE UPON COLORED PERSONS.

At a public meeting held in presence of due notice given in the columns of the City and County of New-York, in the First Colored American Congregational Church, in Sixtenth, near the Bowery, for the purpose of making an expression of public sentiment condemnatory of the outrage committed upon the person of Miss Elizabeth Jennings, a highly respectable female, who is employed as a teacher in the male department of one of the public schools in the City, also organist in the above-named church, in Bartholomew, while on her way to church on Sabbath afternoon, July 18, when she was most brutally outraged and insulted by a conductor of one of the Third-av, City cars.

The meeting was called to order, whereupon the Rev. Lewis Tilson was appointed Chairman and P. S. Kellogg, Secretary.

The Chairman stated the object of the assembly, after which the Rev. James Vickers of New-York addressed the meeting, and made a very elaborate speech appropriate to the occasion.

The Secretary then read a statement from Miss E. Jennings, which was presented in writing, she being unable to attend the meeting, owing to the injuries received at the hands of the railroad conductor and his associates. The statement is as follows:

Sarah E. Adams and myself walked down to the corner of Pearl and Chatham st., to take the Third-av cars; I held up my hand to the driver and he stopped the cars, we got on the platform, when the conductor told us to wait for the next car; I told him I could not wait, as I was in a hurry to go to church, the other car was about a block off; he then told me that the other car had my people in it, that it was appropriated for that purpose; then told him I had no people, it was no particular occasion; I wished to go to church, as I had been going for the last six months, and I did not wish to be detained; he insisted upon my getting off the car. I told him I would wait on the car until the other car came up; he again insisted on my writing in the street, but I did not get off the car; by the time the other car came up, and I asked the driver if there was any room in his car, he told me very distinctly that there was more room in my car than "there was in his;" yet this did not satisfy the conductor; he still kept driving me out of the car, and said he had as much time as I had and could wait as long; I replied, "Very well, we'll see;" he waited some few minutes, when the drivers becoming impatient, he said to me, "Well, you may go in, but remember, if the passengers raise a row, there you shall go out, whether or not, or I'll put you out!" I answered again and told him I was a respectable person, born and raised in New-York, did not know where he was born, that I had never been insulted before going to church, and that he was a good for nothing impudent fellow for insulting decent persons while on their way to church; he then said...
Elizabeth Jennings vs. The Third avenue Railroad Company.—The plaintiff is a colored lady, a teacher in one of the public schools, and the organist in one of the churches in New York. She got upon one of the Company’s cars last summer, on the Sabbath, to ride to church. The conductor finally undertook to get her off, first alleging the car was full, and when that was shown to be untrue, he pretended the other passengers were displeased at her presence; but as she saw nothing of that, and insisted on her rights, he took hold of her by force to expel her. She resisted, they got her down on the platform, jammed her bonnet soiled her dress, and injured her person. Quite a crowd gathered around, but she effectually resisted, and they were not able to get her off. Finally, after the car had gone on further, they got the aid of a policeman, and succeeded in getting her from the car. She instructed her attorneys, Messrs. Culver, Parker and Arthur, to prosecute the Company, together with the driver and conductor. The two latter interposed no defense, the Company took issue, and the cause was yesterday brought to trial. Judge Rockwell charged, instructing the Jury that the Company were liable for the acts of their agents, whether committed carelessly and negligently, or willfully and maliciously. That they were common carriers, and as such bound to carry all respectable persons; that colored persons, if sober, well-behaved, and free from disease, had the same rights as others; and could neither be excluded by any rules of the Company, nor by force or violence; and in case of such expulsion or exclusion, the Company was liable.

The plaintiff claimed $500 in her complaint, and a majority of the Jury were for giving her the full amount; but others maintained some peculiar notions as to colored people’s rights, and they finally agreed on $225, on which the Court added ten percent besides the costs.

NEW-YORK DAILY TRIBUNE, FRIDAY, FEBRUARY 22, 1855.

CITY ITEMS

A WHOLESALE VERDICT.—The case of Elizabeth Jennings vs. The Third-avenue Railroad Company, was tried yesterday in the Brooklyn Circuit, before Judge Rockwell. The plaintiff is a colored lady, a teacher in one of the public schools, and the organist in one of the churches in the City. She got upon one of the Company’s cars last summer, on the Sabbath, to ride to church. The conductor finally undertook to get her off, first alleging the car was full, and when that was shown to be untrue, he pretended the other passengers were displeased at her presence; but as she saw nothing of that, and insisted on her rights, he took hold of her by force to expel her. She resisted, they got her down on the platform, jammed her bonnet soiled her dress, and injured her person. Quite a crowd gathered around, but she effectually resisted, and they were not able to get her off. Finally, after the car had gone on further, they got the aid of a policeman, and succeeded in getting her from the car. She instructed her attorneys, Messrs. Culver, Parker and Arthur, to prosecute the Company, together with the driver and conductor. The two latter interposed no defense, the Company took issue, and the cause was yesterday brought to trial. Judge Rockwell gave a very clear and able charge, instructing the Jury that the Company were liable for the acts of their agents, whether committed carelessly and negligently, or willfully and maliciously. That they were common carriers, and as such bound to carry all respectable persons; that colored persons, if sober, well-behaved, and free from disease, had the same rights as others; and could neither be excluded by any rules of the Company, nor by force or violence; and in case of such expulsion or exclusion, the Company was liable.

The plaintiff claimed $500 in her complaint, and a majority of the Jury were for giving her the full amount; but others maintained some peculiar notions as to colored people’s rights, and they finally agreed on $225, on which the Court added ten percent besides the costs.

Railways, steamboats, omnibuses, and ferry-boats will be administered from this, as to the rights of respectable colored people. It is high time the rights of the class of citizens were asserted, and it should be known whether they are to be thrust from our public conveyances white Germans or Irishmen, with a quarter of motion or a half of combustion, can be admitted.
Learning Activity #4: Synthesizing Primary and Secondary Sources

Have students synthesize evidence from primary and secondary sources to write either a first- or third-person narrative. The narrative should demonstrate how the perspectives of those involved in Jennings's fight contribute to understandings of the role ordinary citizens played in the Long Civil Rights Movement in the United States. The formative performance task can be completed either individually or collaboratively where students cite evidence from the documents to address how the perspectives of a person involved in Jennings's ordeal connect to broader issues of abolition and emancipation in the antebellum era.

Assignment Choice #1: Third Person Narrative, Reporting Breaking News!

Directions: First, complete the chart below using the information from your secondary sources. Next, use the information from the primary and secondary sources to create your front-page newspaper article about Elizabeth Jennings's trolley expulsion and court case. Your front-page newspaper article will include the following:

- Title of your newspaper
- Title of your article
- Date of newspaper
- The article that is at least 1 paragraph in length
- Cite examples from at least 3 sources (two DBQs, one secondary source article)
- A picture with caption

Assignment Choice #2: First Person Narrative Writing an Eyewitness Account

Directions: Use the information from the primary and secondary sources to write a first-person narrative from the perspective of Elizabeth Jennings or a person involved in her trolley ejection or case. Use this template to help you write this first-person account.

Choose a Type of First-Person Narrative to Write:

- Diary entry
- Journal entry
- Op-ed in a newspaper article
- A letter
- An internal monolog (a conversation with oneself)
- An interview
- Another idea you have for a first-person narrative

Examples of a Perspective to Write from:

- Elizabeth Jennings
- Thomas L. Jennings
- Chester A. Arthur
- Judge Rockwell
- Moss, The Streetcar Conductor
- The Witness to Elizabeth's Ordeal
- A Juror who agreed to give Elizabeth Jennings her full settlement
- A Juror who disagreed to give Elizabeth Jennings her full settlement
- Another person not included in this list
Learning Activity #5: Debrief, Inquire, Make Connections
Students can share their first or third-person narratives and write a proposal to address how to commemorate a historical figure. This summative performance task not only outlines how students can apply what they learned about Elizabeth Jennings through engagement in historical empathy pedagogies, but also encourages inquiry for future lessons concerning civil rights and social justice in United States history. Ideas for student-led projects include creating infographic flyers, recording documentary videos, constructing informative websites, hosting podcasts, painting murals, composing songs, and writing letters to elected officials.

Conclusion
Elizabeth Jennings’s bold actions on that 1854 summer morning had a profound impact on civil rights and the Black freedom movement in the United States. Implementing historical empathy pedagogies centered around source analysis related to this event can be an impactful way to engage students in analyzing the ways that ordinary citizens participated in movements for equality. While Jennings is a historical figure from New York, teachers can adapt and teach these learning activities by engaging students in researching their own community’s history to identify historical contexts, examine perspectives of historical figures, and analyze how their predecessors agitated, advocated, sacrificed, and persisted in challenging inequities.

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Notes


2. Ibid.

3. Ibid.


5. Ibid.


References


Douglass, Frederick. “Legal Rights Vindicated.” Frederick Douglass′ Paper. (March 2, 1855).


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