

## The Trial of John Brown (1859)

# Judge Instructions

You should review the materials you have been given regarding trial procedures.

When you enter the courtroom, the Bailiff will say:

*“All rise. Circuit Court of the Commonwealth of Virginia, County of Jefferson, Judge Richard Parker presiding, is now in session. Please be seated and come to order.”*

You say:

*“This is the case of the Commonwealth of Virginia v. John Brown.”*

Instruct the Bailiff to call in the jury.

Ask the defendant to rise while the indictment against him is read.

*Read the full indictment (attached).*

Ask the defendant how he pleads. (He will say, “not guilty.”)

Invite the prosecution to present its Opening Statement.

Ask the defense if it would like to present an Opening Statement at this time, or if it would prefer to wait until after the prosecution rests its case.

Invite the prosecution to call its first witness. The prosecution will be allowed to proceed through all five of its witnesses, plus John Brown if it chooses to call him. The defense will be allowed to cross-examine each witness, and the prosecution to re-direct, if it chooses. The Bailiff will swear in each witness, and instruct him/her to be seated. The Bailiff will also call out time warnings to the attorneys, and tell them when to stop.

Once the prosecution has called all of its witnesses, it must rest its case.

The defense may now make its Opening Statement, if not done previously.

Invite the defense to call its first witness. Proceed through the defense’s case in the same manner as for the prosecution. After all defense witnesses have testified, the defense must rest its case.

Instruct the Prosecution to make its Closing Arguments.

Instruct the Defense to make its Closing Arguments.

Give the following instructions to the Jury:

*"It is now up to the Jury to decide the defendant's guilt or innocence. You must deliberate in good faith. You must consider only the evidence before you. In order to find the defendant guilty, you must determine that you consider him guilty beyond a reasonable doubt. On the charge of murder, you may find him guilty of first degree (premeditated) murder, or second degree murder (not premeditated). Your decision must be unanimous. If you are unable to reach a unanimous verdict, you must report that you have made every effort to do so, and that you are hopelessly deadlocked. Please inform the Bailiff when you have completed your deliberations."*

Send the jury to the Jury Room to deliberate. While the jury is out of the room, you may declare the court in recess and leave the bench.

When the jury has concluded its deliberations, the Bailiff will call the court to order, and you must again declare the court in session. Instruct the Bailiff to bring the jury back into the room. Once they are seated, instruct the defendant to stand, and then say:

*"Gentlemen of the Jury, how do you find?"*

Once the verdict is read, John Brown will stand and make a statement.

You then proceed with sentencing:

If guilty ->	<i>"John Brown, this court sentences you to hang in public, on Friday the 2nd of December next."</i>
If not guilty ->	<i>"John Brown, you are free to go."</i>
If no verdict ->	<i>"John Brown, this court declares a mistrial. You are returned to custody to await a new trial."</i>

Finally, you say:

*"This court is adjourned."*