John Brown and the Civil War

Grade Level: 5th – 8th Grade

RESOURCES:

Mock Trial of John Brown - Attached is the script for the trial based on actual trial transcripts and written by Tanya Harding, a Heritage Farm docent.

Territorial Kansas: This Guilty Land <https://www.kshs.org/p/this-guilty-land/15823>

Curriculum Pathways: <https://www.curriculumpathways.com/portal/#search/g/%22john%20brown%22/z1/0/relevanceScore>

EWV: John Brown: Hero or Traitor <https://www.wvencyclopedia.org/assets/0003/0906/LessonplanJohnBrown1a.pdf>

Biography.com <https://www.biography.com/people/john-brown-9228496>

WV Cultural Center, Discovery Room 5 (John Brown’s raid) <http://www.wvculture.org/museum/education/EDUdr5.html>

NPS.gov John Brown’s raid – Readers Theater

<https://www.nps.gov/teachers/classrooms/john-browns-raid-readers-theatre.htm>

**Mock Trial of John Brown**

By Tanya Harding

**Bailiff: (standing)** Hear ye! Hear ye! All rise! The Court is now in session. The Honorable Judge Richard Parker is presiding.

**Judge Parker:** You may be seated.

We are here today to listen to witness accounts of the recent events at Harper's Ferry on the 16th, 17th, and 18th days of October 1859. Will the accused please stand.

You have been accused of

1. working with slaves to cause a rebellion

2. committing treason against the Commonwealth

3. murder.

How do you plead?

**Mr. Brown: (standing)** Not guilty.

**Mr. Botts: (standing)** I would like to ask for a delay of 2 or 3 days as Mr. Brown is mentally and physically unable to proceed with a trial at this time. Also, he is waiting for the arrival of his lawyer from the North.

**Mr. Hunter: (standing)** In my opinion we should not delay the trial of this prisoner a single day, and there is no reason for it. Lives have been lost, properties were damaged, and people are protesting. We cannot be sure that another lawyer will actually come here anytime soon.

**Mr. Green: (standing)** It is true, my client is waiting for another lawyer. At this point I have not yet had time to prepare Mr. Brown for a trial.

**Judge:** Expecting that another lawyer will arrive is not a valid cause for delay as there is no certainty that someone will even come. If a physical inability can be shown, a delay will be granted. Bailiff, call the prison doctor to the bench.

**Bailiff:** The court calls Dr. Mason to the bench.

**Judge:** In your opinion, Dr. Mason, is the prisoner able to stand trial?

**Dr. Mason: (standing)** In my opinion, Mr. Brown can go on with the trial. His injuries will not affect his memory. In fact he has not stopped talking about the raid.

**Judge:** Thank you.

**Mr. Botts: (standing)** (waving a letter) Your Honor, I have a letter I received this morning from A.H. Lewis, of Akron, Ohio, who has known Mr. Brown's family for a number of years. If it pleases the court, I would like to read it as it may affect the motion for a delay.

**Judge:** (exasperated) Very well. You may read the letter.

**Mr. Botts:** (reading from the letter)John Brown, leader of the uprising at Harper's Ferry, and several of his family have lived in this county many years. Insanity is hereditary in that family. His mother's sister died with it and other family members have been placed in the lunatic asylum. These facts can be proven by witnesses living here who will attend the trial if desired.

**John Brown: (standing)** (interrupting) If I were insane, I think I would know it. I am not insane, and I resent anyone saying that I am insane.

**Judge:** Since Mr. Brown denies being insane and since we cannot be sure another lawyer will arrive soon, if at all, motion for a delay is denied. Mr. Brown will be represented by his court appointed lawyers. The trial will proceed without delay. Everyone be seated. Can we now hear the opening statements?

**Mr. Harding: (standing)** Gentlemen of the jury, in a moment you will hear evidence of how Mr. Brown planned and executed a raid on Harper's Ferry. Harper's Ferry is home to a federal arsenal. Mr. Brown broke into and stole weapons from the United States military. His plan was to give these weapons to local slaves so that they could rise up against the good people of Harper's Ferry in armed rebellion. He intended to create a new state with a new Constitution. Mr. Brown not only destroyed federal property, he held innocent people hostage, fearing for their lives. During this rebellion, Mr. Brown did, in fact, brutally murder five men. Gentlemen of the jury, Mr. Brown is not a hero; he is a murdering traitor and you must find him guilty as charged!

**Judge:** Thank you, Mr. Harding. Mr. Green, would you like to give your opening statement?

**Mr. Green: (standing)** Thank you, your Honor. Gentlemen of the jury, may I remind you that this courtroom is in the state of Virginia. Yet Mr. Brown’s raid took place at the Armory at Harper's Ferry. As pointed out by Mr. Harding, the Armory is in fact a federal arsenal. It is owned by the United States, not Virginia. Therefore, any crime committed there should not even be tried here, but rather it should be tried in a federal court. Based on that, you must find Mr. Brown not guilty. Thank you.

**Judge:** Thank you, Mr. Green. The prosecution may call their first witness.

**Mr. Harding:** **(standing)** The prosecution calls Conductor Phelps to the stand.

**Bailiff:** Do you swear to tell the truth, the whole truth and nothing but the truth?

**Conductor Phelps:** I do.

**Mr. Harding:** Conductor Phelps, will you care to tell the jury what you witnessed on the night of October 16?

**Conductor Phelps:** My train arrived as usual about 1:25, but there was no watchman on the bridge. I was talking about this when the watchman ran up to us and said they had been attacked. I heard a gunshot and that is when I saw that the man known as Hayward had been shot. I looked up and saw men with rifles pointed at us. They told me to get back on the train and continue on our way. I asked them what it was they wanted, and they said, "We want liberty and we intend to have it."

**Mr. Harding:** Were you allowed to leave the area or was your train delayed?

**Conductor Phelps:** We were told we could go, but I was afraid for the safety of my passengers. I waited until daybreak so that I could see if there were any more dangers waiting for us across the bridge. Later a man came to us and said, "We don't want to injure you or delay your train; all we want is to free the slaves." Mr. Brown himself came to us after that and said he was sorry. He had not intended for any blood to be shed. We were then safely escorted across the bridge into Maryland. I later returned to Harper's Ferry and heard Mr. Brown say that "he asked no sympathy and had no apologies to make."

**Mr. Harding:** Mr. Brown stated he was not sorry. Did he know that he was doing something wrong? That he was breaking the law?

**Conductor Phelps:** Mr. Brown said that he didn't think it was wrong to take property that belonged to other folks. He said he was expecting more people from other states to join the effort.

**Judge:** Do you have any more questions for the witness, Mr. Harding?

**Mr. Harding:** Not at this time.

**Judge:** Mr. Green, you may cross examine the witness.

**Mr. Green: (standing)** Conductor Phelps, didn't Mr. Brown say that he was sorry that men had been killed?

**Conductor Phelps:** Yes, Mr. Brown did say that. He also said that it wouldn't happen again provided that people were peaceable and quiet.

**Mr. Green:** Thank you. No further questions.

**Judge:** You may step down.

**Mr. Hunter: (standing)** The state calls Colonel Lewis W. Washington to the stand.

**Bailiff:** Do you swear to tell the whole truth and nothing but the truth?

**Col. Washington:** I do.

**Mr. Hunter:** Can you tell the court what you heard Mr. Brown say?

**Col. Washington:** Mr. Brown said the raid was an attempt to free the slaves. He had 22 men with him with 200 rifles, 200 revolvers, and lots of spears. It was enough to arm about 1,500 men.

**Mr. Hunter:** Did Mr. Brown state why he chose Harper's Ferry?

**Col. Washington:** Yes. It was between the borders of Virginia and Maryland. It would make a good place for his provisional government.

**Mr. Hunter:** Thank you. No further questions.

**Mr. Botts: (standing)** Colonel Washington, you were one of the men taken as a prisoner by Mr. Brown. Is that correct?

**Col. Washington:** Yes.

**Mr. Botts:** Isn't it true that Mr. Brown insisted more than once that all prisoners remain in the back of the armory so that none of them would be hurt?

**Col. Washington:** Yes.

**Mr. Botts:** Isn't it also true that Mr. Brown allowed the prisoners to leave so that they could tell their families that they were safe?

**Col. Washington:** Yes.

**Mr. Hunter: (standing)** Did one of Mr. Brown's men say to one of the prisoners who was in favor of slavery that he would be the first one to hang?

**Col. Washington:** Yes.

**Mr. Hunter:** Thank you. No further questions.

**Mr. Hoyt: (standing – loudly)** Your Honor!

**Judge:** Who are you and why are you disrupting this trial?

**Mr. Hoyt:** My name is Mr. Hoyt. I am a lawyer from Boston. I am here to volunteer my services to Mr. Brown.

**Judge:** Very well, be seated with Mr. Brown.

**Mr. Hunter: (standing)** We'd like to call Mr. Brown to the stand.

**Mr. Hunter:** (showing a stack of papers to Mr. Brown) Do you recognize this as your handwriting?

**Mr. Brown:** Yes.

**Mr. Hunter:** These papers, identified by Mr. Brown as being his handwriting, are the printed Constitution and other papers outlining a new government. Mr. Brown planned to start his own state. This is proof that he was, indeed, committing treason against the Commonwealth.

**Mr. Brown:** I have nothing to say about that.

**Mr. Hunter:** Thank you.

**Mr. Botts: (standing)** The Defense calls Joseph Brewer. Please tell the jury how you were treated by Mr. Brown and his men.

**Mr. Brewer: (standing)** I was a prisoner, held in the engine house. We heard a gunshot and guessed that a man had been shot. Mr. Brown refused to check on him for fear he would be shot. I was sent out many times by Mr. Brown with a flag of truce to request that no one shoot any guns as the lives of us prisoners were endangered.

**Mr. Botts:** The defense calls Mr. Kitzmiller. Please tell the jury about your experience with Mr. Brown.

**Mr. Kitzmiller: (standing)** Mr. Brown repeatedly said his object was to free the slaves. If it was necessary, he would fight the pro-slavery people.

**Mr. Botts:** Did Mr. Brown go out and randomly shoot people?

**Mr. Kitzmiller:** No.

**Mr. Botts:** Thank you. No further questions.

**Mr. Hunter: (standing)** Your Honor, I realize that there is a great deal of testimony in regards to Mr. Brown not shooting citizens, but that does not change the evidence.

**Mr. Brown: (standing)** (standing and interrupting) May it please the Court, despite all the promises I have received for a fair trial, nothing like a fair trial is to be given to me. I have no lawyer in whom I feel that I can trust.

**Mr. Hoyt: (standing)** I agree with Mr. Brown, although I have not even talked to him. I came from Boston to volunteer my services. I have not read the charges nor do I even know the criminal code of Virginia or have any time to read it.

**Mr. Green: (standing)** Mr. Botts and I have talked. We wish to withdraw from the case. since he has declared he has no confidence in us.

**Judge:** I cannot force you to remain, gentlemen; however, the trial must go on. Now if we have no more witnesses to be called, I am now instructing the Jury to decide whether Mr. Brown is innocent or guilty.

**Jury: (standing)** (in unison) The defendant, Mr. Brown, is GUILTY!

**Judge:** Very well, the Court will now decide the punishment.

**Mr. Brown: (standing)** My only desire was to free the slaves. I never did intend to murder or commit treason, or the destruction of property, or to excite or incite the slaves to rebellion. What I have done in behalf of the poor slaves is not wrong, but right. Now if it is necessary that I should lose my life for the purpose of justice, I say let it be done. But, I feel no guilt.

**Judge:** As there seems to be no reasonable doubt about the guilt of the prisoner, I hereby order him to be hung on Friday, December 2, 1859, one month from today.