



Col. John Chivington & Sand Creek a Historical Mock Trial

Judge Guidelines

In order to do an effective job as a judge in recreating a historical mock trial, you will have to learn many of the skills and techniques actually employed by modern trial judges. It will not be a simple task and will require considerable effort. The following information will give you some practical suggestions about how to make your historical trial a worthwhile learning experience, and it will help you overcome some of the difficulties experienced by novice judges.

Pretrial Preparation

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Before the beginning of the trial, you must carefully study the meaning of the law(s) that will apply in the coming trial. The defendant — Colonel John Chivington — is charged with reckless misconduct. It is your responsibility to explain the law and the charge to the jury.

Objections

Before the beginning of the trial, you must review all the various motions and objections that may be raised during the trial by the prosecution and defense attorneys. Read the Prosecution Guidelines or Defense Guidelines to review the varying types of objections.

Exhibits

During pretrial preparation, you will likely be approached by the attorneys, and asked to approve an exhibit for use as evidence. (Review either of the attorney guidelines for details on exhibits.)

During the Trial

Charging the Jury

It will be your responsibility to organize and run the trial from start to finish. When you enter the court, the sergeant-at-arms will say “all rise” until you are seated.

Your first job will be to charge the jury. This means that you must:

1. Explain the crime involved and the laws that apply to the case.
2. Explain the meaning of “burden of proof.” In this case the burden of proof is on the prosecution. It must show that Colonel Chivington is guilty “beyond a reasonable doubt” or

the jury must find him not-guilty. (A jury never declares a person “innocent.”) The jurors may believe that the Colonel is guilty, but unless they find the evidence to be conclusive, they must find him not-guilty.

The Trial Itself

__After you have charged the jury, proceed with the trial. Normally, the trial will follow the following sequence:

1. Have the sergeant-at-arms read the charges against Colonel Chivington, while he and his council remain standing.
2. Have the Colonel and his attorneys make a plea (guilty or not guilty).
3. First the prosecution, then the defense deliver their opening remarks.
4. The prosecution presents its case. (see Prosecution Guidelines for details)
5. The defense presents its case. (see Defense Guidelines for details)
6. First the prosecution, then the defense deliver their closing arguments.
7. Excuse the jury for deliberation.
8. Reading of the verdict.

Maintaining Order

- __• Use a gavel or something similar to maintain “order in the court.”
- Don’t let the attorneys argue with each other (or, for that matter, anyone else). For example, if there is a problem or controversy over a ruling, call the attorneys to the bench and quietly explain your decision.
- You may call a recess if a brief period of time is needed to consider points of law.
- Remember, you are the supreme authority in the court and anyone who does not conform to courtroom behavior can be held in *contempt of court*, which is anything that obstructs or interferes with the orderly administration of justice.