

Packet #5

"An Incident in Boston on March 5, 1770  
Arguments of Innocence and Guilt

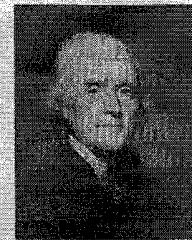
Juror Task #5:

Read and analyze the closing arguments of this case.

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Closing Argument #1 - From the Trial Summation of John Adams  
for the defense of the British soldiers.



(The following statement is adapted from the trial summation of John Adams in *Rex v Wemms (The Soldiers Trial)* - *The Legal Papers of John Adams, No. 64, Rex v Wemms.*)

You must place yourself in the situation of the British soldiers. Consider yourselves knowing that the prejudices of the world around you were against you; that the people around you thought you came to force them to obey laws and instructions which they hated... that the soldiers had no friends around them, all were against them...

Consider the people crying Kill them! Kill them! Knock them over! heaving snow-balls, oyster shells, and clubs... Consider yourselves in this situation and then judge whether a reasonable man, in the soldiers situation, would not have concluded they were going to kill him...

It is necessary to consider what is a riot. I shall give you a definition of it, "Wheresoever more than three persons use force or violence, for the accomplishment of any design whatever, all concerned are rioters."

Were there not more than three persons in *Dock-square*? Did they not agree to go to *King Street*, and attach the *Main guard*? Where then is the reason for hesitation in calling it a riot? If we cannot speak the law as it is, where is our liberty? And this is law, that wherever more than three persons are gathered together to accomplish anything with force, it is a riot.

The next witness that knows anything was *James Bailey*.. He saw some round the Sentry, heaving pieces of ice, large and hard enough to hurt any man, as big as your fist. One question is whether the Sentinel was attacked or not. If you want evidence of an attack upon him there is enough of it. Here is a witness, a citizen of the town, surely no friend to the soldiers...

He says he saw twenty of thirty round the Sentry, as big as one's fist; certainly cakes of ice of this size man kill a man, if they happen to hit some part of the head. So that, here was an attack on the Sentinel, the result of which he had reason to fear, and it was wise in him to call for the *Main-Guard*...

*Bailey* swears *Montgomery*, a British soldier, fired the first gun... This witness is not prejudiced in favor of the soldiers. He swears he saw a man come up to *Montgomery* with a club, and knock him down before he fired, and that he not only fell himself, but his gun flew out of his hand, as soon as he rose he took it up and fired. If he was knocked down on his post, had he not reason to think his life in danger?...

When the crowd was shouting...and threatening life, the bells all ringing, the mob whistling and screaming...the people from all quarters throwing every kind of rubbish they could pick up in the street, and some...throwing clubs... *Montgomery* hit with a club and knocked down...what could he do? Do you expect him to do nothing?...

*Bailey* "Saw *Attucks*, the Mulatto, seven or eight minutes before the firing, at the head of twenty or thirty sailors...and he had a large stick, "So that *Attucks*...appears to have decided to be the hero of the night and lead this army...He formed them in the first place in *Dock Square*, and marched them up to *King Street*, with their clubs. They passed through the main-street up to the *Main Guard*, in order to make the attack. If this was not an unlawful assembly, there never was one in the world. *Attucks* with his marchers joined the people already at the sentry box. When the soldiers pushed the people off, this man [*Attucks*] with this party cried, "Do not be afraid of them. They dare not fire. Kill them! Kill them! Knock them over!" And they tried to knock their brains out.