Program Submission Form

AMERICAN INNS of COURT®

Program Title: Balanced Justice? An Overview of Supreme Court History as we Face the Winds of Change

Date Presented: March 16, 2017 Inn Year: 2017

Presenting Inn: American Inn of Court of Acadiana Inn Number: 30094

Inn City: Lafayette Inn State: Louisiana

Contact Person: Peggy Giglio/Kenanne Dooley Phone: 337-322-8002/337-267-2324

E-mail Address: peggygiglio@cox.net/kdooley@Liskow.com

Please consider this program for the Program Awards: ☑ Yes ☐ No This program is being submitted for Achieving Excellence: ☑ Yes ☐ No
(Submit within 60 days of presentation.)

Program Summary:

Be concise and detailed in summarizing the content, structure, and legal focus of your program. Please attach additional sheets if necessary.

We presented a full historical and legal overview of the Supreme Court since its inception, as we are in a modern day place of change to that institution. We split the program into historical periods and presented the sections through various methods including monologue, factual presentation, skit, music, and dramatic presentation. In an effort to both educate and entertain our audience, and to make the program more meaningful, we brought the audience in to each era through visual and audio tools. That is, no one part looked or felt like any other part of the presentation. We touched on the different make ups of the court, individual justices, changing attitudes and social issues, and landmark (and other interesting) cases. We walked the road of history with our group and gave our audience a unique and often unexplored look at the intertwining of our country and the court, leaving them with a different perspective and appreciation for both American history and our profession.

Program Materials:

The following materials checklist is intended to insure that all the materials that are required to restage the program are included in the materials submitted to the Foundation office. ***Please check all that apply and include a copy of any of the existing materials with your program submission:***

☑ Script ☐ Articles ☐ Citations of Law ☐ Legal Documents ☐ Fact Pattern ☐ List of Questions ☐ Handouts

☑ PowerPoint Presentation ☐ CD ☐ DVD ☐ Other Media *(Please specify)* music clips

Specific Information Regarding the Program:

Number of participants required for the program: 8 Has this program been approved for CLE? ☑ Yes ☐ No

Which state's CLE? Louisiana How many hours? 1.25 ☐ Pending ☑ Approved

Recommended Physical Setup and Special Equipment:

i.e., DVD and TV, black board with chalk, easel for diagrams, etc.

powerpoint on computer, screen, table, costumes, posterboard, markers

Comments:

Clarify the procedure, suggest additional ways of performing the same demonstration, or comment on Inn members' response regarding the demonstration.

The program was incredibly well received by our Inn members. I am, in fact, still receiving great reviews from members. We received numerous compliments on the unique presentation, rich and thorough material, and way we made people think about our modern day Supreme Court and American history in a broader and more meaningful way. They left satisfied and better educated. Many were thrilled with their new knowledge of little known facts and/or facts they felt they should have known, but didn't. We connected our past to our present and left people thinking about the future. (For telling examples, see Pages 3 and 4)

Program Submission Form

Roles:

List the exact roles used in the demonstration and indicate their membership category; *i.e.*, Pupil, Associate, Barrister or Master of the Bench.

Role	Membership Category
Narrator	Master
4 Justices in Scene 1	2 Associates, 1 Barrister, 1 Master
Suffragette	Master
Louis Brandeis	Associtate
James McReynolds	Associate
George Sutherland	Barrister
Willis Van Devanter	Master (PLEASE SEE ATTACHED PAGE 1 FOR ADDITIONAL ROLES)

Agenda of Program:

List the segments and scenes of the demonstration and the approximate time each item took; *i.e.*, "Introduction by judge (10 minutes)."

Item	Time
Scene 1 (Parts I-III), including introduction	8 minutes
Scene 2 (Part IV)	10 minutes
Scene 3 (Part V)	8 minutes
Scene 4 (Part VI)	10 minutes
Scene 5 (Part VII)	10 minutes
Scene 6 (Part VIII)	8-9 minutes (PLEASE SEE ATTACHED PAGE 2)

Program Awards: *Please complete this section **only** if the program is being submitted for consideration in the Program Awards.*

Describe how your program fits the Program Awards Criteria:

Relevance: How did the program promote or incorporate elements of our mission? *(To Foster Excellence in Professionalism, Ethics, Civility, and Legal Skills)*

PLEASE SEE ATTACHED PAGE 3

Entertaining: How was the program captivating or fun?

PLEASE SEE ATTACHED PAGE 4

Creative and Innovative: How did the program present legal issues in a unique way?

PLEASE SEE ATTACHED PAGE 5

Educational: How was the program interesting and challenging to all members?

PLEASE SEE ATTACHED PAGE 6

Easily Replicated: Can the program be replicated easily by another Inn? ☑ Yes ☐ No This program is: ☑ Original ☐ Replicated

Questions:

Please contact program library staff at **(703) 684-3590** or by e-mail at **programlibrary@innsofcourt.org**.

Please include ALL program materials. The committee will not evaluate incomplete program submissions.

Balanced Justice? An Overview of Supreme Court History as we Face the Winds of Change

I. (Lights lowered or off to draw attention, voice from offstage– **TRAVIS**) Oyez! Oyez! Oyez! All persons having business before the Honorable, the Supreme Court of the United States, are admonished to draw near and give their attention, for the Court is now sitting. God save the United States and this Honorable Court!

(ENTER CAMERON, PHILIP, JOHN and MATT–sit at table, DRESSED AS ORIGINAL SUPREME COURT JUSTICES, with white feather/quill pens)

II. (Lights up) Scene: sitting at table, 4 judges in robes, quill pens in hand, looking important while twiddling their thumbs.– **CAMERON, PHILIP, JOHN, MATT**

Narrator: The date is Feb. 2, 1790. The place, The Royal Exchange Building, New York City. This historic moment was scheduled to take place yesterday, but only 3 justices attended, precluding a quorum. On this day, the first session, Justice John Rutledge failed to attend and Justice James Iredell was not yet confirmed, so these 4 sit alone.

In the words of Historian Fergus Bordewich, "Symbolically, the moment was pregnant with promise for the republic, this birth of a new national institution whose future power, admittedly, still existed only in the minds eye of a few farsighted Americans. Impressively bewigged and swathed in their robes of office, Chief Justice Jay and three associate justices–William Cushing of Massachusetts, James Wilson of Pennsylvania, and John Blair of Virginia–sat augustly before a throng of spectators and waited for something to happen. Nothing did. They had no cases to consider. After a week of inactivity, they adjourned until September and everyone went home."

(Justices shrug to each other, exit the stage)

Narrator: The Court would not make its first decision until 1791.
So, this noble institution began with no shows, no cases, no home of its own, and very little prestige.

III. Lower lights and show the modern day video of lobbying for a justice. (*Remove Table)

Following the video, SLIDE: Balanced Justice? An Overview of Supreme Court History

As We Face the Winds of Change

Narrator: And here's where we are today. How did we get here? And, although seemingly so different, have things really changed that much? Let's find out...

IV. PHILIP and CAMERON POWERPOINT PRESENTATION

Script attached at end...presented in playful back and forth banter/free style

POWERPOINT SLIDES:

SLIDE 1: 1789-1900
Slide 2: Judiciary Act
Slide 3: 6 justices (act set up the courts)
Slide 4: John Jay (John Jay accepts)
Slide 5: Map (Royal Exchange first session)
Slide 6: Washington DC (Moved to Washington 1800)
Slide 7: 6 justices (lame duck discussion)
Slide 8: Thomas Jefferson
Slide 9: John Marshall
Slide 10: Impeach! (Samuel Chase impeached)
Slide 11: 7 justices (court increases size)
Slide 12: Joseph Story (youngest justice to ever serve)
Slide 13: Roger Taney (pronounced Tawnee)
Slide 14: 9 justices
Slide 15: 10 justices
Slide 16: 7 justices
Slide 17: 7 justices
Slide 19: 9 justices
Slide 20: Two Evils (end the stalemate in presidential election)
Slide 21: Ward Hunt (stroke)
Slide 22: Riding the circuit

Narrator: As you see, much happened during these early years. Our nation was changing, growing, learning, moving. And so was our highest court. The Supreme Court's decisions started showing a more pronounced effect on society and social issues as the years went by...

Here, we head into the 1900s. President McKinley has been assassinated and Theodore Roosevelt has become President. He will be followed by William Howard Taft, Woodrow

Wilson, and Warren Harding. Exciting things are happening– to name a few, Ford Motor Company, Harley Davidson, and U.S. Steel are created, baseball has its first World Series, the Wright Brothers make their first flight, the NAACP is founded by W.E. B. Du Bois, the Girl Scouts and Boy Scouts are formed, new states are joining our young nation, and Nellie Davis Ross became the first woman sworn in as a governor of a U.S. State in Wyoming.

The Supreme Court was also busy...for a peek into what was happening with our justices, we turn to a feisty and determined lady of the times, a suffragette.

SLIDE: 1900-1925

V. PEGGY'S SUFFRAGETTE MONOLOGUE (Alone, dressed as suffragette/sash/sign)

I just voted. Oh, that doesn't grab you? Well, perhaps that should make me happy...Women voting is your norm. Good, that means our work was successful. And work it was...about 80 years of it. We–women and men, visionaries–fought long and hard to make this day a reality. While suffering through the inequality and injustice of our times, we turned our eyes to the future and saw something different for our children. Something better–and we wanted it. So we fought for it. We fought for it right through the first World War–in fact, that war helped us out. After all, everyone relied on us to keep the home fronts running during that time–and we very successfully did–so, how do you then deny us the right to stand next to you in a voting booth? We protested, we picketed, we marched, we went to jail–lots of jail, we filed lawsuits, we went on hunger strikes, we were force fed, we were spit on, we were mocked, we were beaten, we were ridiculed. But we knew we were right, so we fought on.

Many people think our victory came on August 18, 1920 when the 19th Amendment was FINALLY ratified...it had been passed for more than a year, you know. And that was a grand success. But, it really wasn't until 1922 that it was truly finalized. Until that time, some people still opposed our right to vote even after the Amendment was law. So, finally, the Supreme Court stopped the nonsense by declaring the 19th Amendment constitutionally established in the case of Leser v. Garnett.

It was a good day. I'm just sorry my friend Susan B. Anthony wasn't there to see it...she passed on back in 1906 before ever seeing her dream as reality.

Speaking of Susan, she had a brilliant plan to get herself arrested by trying voting in the 1872 Presidential election, hoping the Supreme Court would take up the case and get this all worked out long before the 19th Amendment. The court declined...as they did when several other women tried the same thing through the years. I suppose they were busy with other matters. Well, they did a good bit as the new century dawned.

1905 started that whole Lochner Era–that period when the court did its best to invalidate legislation aimed at regulating business. It started with the Lochner case where the court overturned a New York law which limited working hours for bakery employees. The "liberty of contract" they called it. That "liberty of contract" doctrine cut both ways, though–for example, in Adair versus the United States in 1908, the court banned "yellow dog contracts" which forbid workers from joining labor unions. And, later on, the court overturned minimum wage laws in Adkins v. Children's Hospital. Of course, it soon reversed itself on that one. Eventually, however, safety standards were improved despite all of this liberty of contract. Of course, it took that awful Triangle Shirtwaist fire to make that happen. So many lives lost.

That was in1911-- the same year the Supreme Court split up the Standard Oil Company after finding it guilty of monopolizing the petroleum industry. That was quite a to-do. Speaking of to-dos! A few years later, there was all that hullaballoo when Justice Brandeis was nominated...he was Jewish, you know and, thus, fiercely contested by lots of big wigs–many claimed it was because he was so progressive, but they did little to hide their true reason...you heard me mention he was Jewish, right? It was such a deal that the Senate Judiciary Committee held a public hearing on the nomination for the first time in history. Well, anyway, he had lots and lots of supporters–influential ones–and he made it.

Not long after cementing women's right to vote, the court established the doctrine of Incorporation...that is, extending the Constitution to the states in many instances, not just the federal government. That doctrine started with Gitlow v. NY in 1925, protecting the First Amendment's freedom of speech. Busy time for the Fourteenth Amendment, these early years of the 20th century. Things are moving along– I mean, here we are already in 1925! Did you hear about that recent Scopes trial where that nice substitute teacher was on trial for teaching evolution in school? They said he violated Tennessee's Butler Act. The Supreme Court didn't hear that one, though...it eventually addressed the issue, but not until 1968 in that Epperson case, when it struck down bans based on

religion...a violation of the Establishment Clause of the 1st Amendment. Well, we'll save the 60s for later...

Oh, I could go on and on...so much happening these days...but I have to go now. Going to celebrate my vote today with some friends. Raising a glass together...non alcoholic, of course. Prohibition and all, you know...

Narrator: And so goes the Roaring 20s. In March of 1933, Franklin Delano Roosevelt was inaugurated as our nation's thirty second president...right in the middle of a bank panic during the Great Depression. At the time, the court held three democrats, two of whom staunchly opposed the president's policies. Four justices–Pierce Butler, James McReynolds, George Sutherland, and Willis Van Devanter–would vote to invalidate almost all of FDR's New Deal Policies. They came to be known as the "Four Horsemen" after the allegorical figures of the Apocalypse known for death and destruction. **(*SLIDE: 4 Horsemen).*** They often rode to and from court together to coordinate arguments and positions.

During FDR's first 100 days, Congress passed the National Industrial Recovery Act, allowing FDR to regulate industry in an effort to stimulate economic recovery. The Act established the National Recovery Administration and the Blue Eagle emerged as its symbol. Companies that cooperated were allowed to display Blue Eagle banners and consumers were encouraged to support only those places. **(SLIDE: NRA Eagle)**

VI: TRAVIS 1925-1950 –A Peek Inside...

CAST **(All costumed/robes/wheelchair)**

Narrator—Elena Pecoraro

Franklin Delano Roosevelt—Travis Broussard (IN WHEELCHAIR)

Louis Brandeis—Philip Debaillon

James McReynolds—Cameron Snowden

George Sutherland—John Roy

Willis Van Devanter—Matthew Hill, Jr.

Pierce Butler—Wayne Shullaw

Charles Hughes—Peggy Giglio

Owen Roberts—Matthew Hill, Jr.

Vice President John Garner—Wayne Shullaw

[Enter James McReynolds, Louis Brandeis, George Sutherland, Willis Van Devanter and Butler—All Standing while narrator speaks]

McReynolds (Cameron):With this New Deal foolishness the President is going to subvert the constitution and the liberties of the people. Congress has torched the constitution by giving the President power never dreamed by the far-seeing framers, who labored with hope of establishing justice and securing the blessings of liberty. Not only is there no permission for such actions, they are inhibited. We have to strike down this impermissible overreach for the sake of the constitution!

Brandeis (Phil): I regret I must agree. I defended Teddy's sugar tariffs as a Utah Congressman and supported his agenda as a senator. Yet I cannot sit by idly and allow such a gross expansion of power. This will prolong the Depression rather than remedy it. We have to get word to the president that this is the end of this business of centralization, and we're not going to let this government centralize everything.

Butler (Wayne): This price-fixing artifice turns industry into a cartel and has forced up prices at a time of widespread poverty and unemployment. Citizens, not the President, have the fundamental right to choose the chickens they want to buy.

V. Devanter (Matt):This cannot stand!

Sutherland (John):If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned.

[Exit McReynolds, Brandeis, Butler, Van Devanter, and Sutherland]

Narrator: On May 27, 1935, the Hughes Court unanimously struck down the NIRA as unconstitutional in a case scrutinizing FDR's regulation of the Poultry Industry. FDR had established a code to ensure live poultry were fit for human consumption and to prevent the submission of false sales and price reports. The unanimous court concluded the law was void for vagueness because the critical term—"fair competition"—was nowhere defined in the Act. The court also concluded the Act's delegation of authority to the executive branch was unconstitutionally overbroad.

[Enter FDR with newspaper]

Roosevelt (Travis): This is an unthinkable ruling. It is one that will return our nation to the industry and labor chaos I inherited when the great people of this Country sent me into this office in a landslide victory. We have been relegated to a horse-and-buggy definition of interstate commerce. I am ashamed of the Court's antiquated interpretation of the Commerce Clause, and we cannot allow these nine old men to hinder our growth as a nation. Don't they know many of the CEOs of the biggest and most powerful corporations in this country supported this legislation? General Electric; Bethlehem Steel; and the U.S. Chamber of Commerce all hailed its enactment.

[Exit FDR]

Narrator: Little more than seven months after holding the NIRA unconstitutional, the Court took aim at another of FDR's initiatives, the Agricultural Adjustment Act (AAA). The AAA was passed at a time when farmers faced the most severe economic situation and lowest agricultural prices since the 1890s. The AAA reduced agricultural production by paying farmers subsidies not to plant on part of their land and to kill off excess livestock. The idea behind the AAA was to tax food processors and channel the proceeds to farmers who destroyed crops, thereby reducing supplies and maintaining farm prices.

[Enter Roberts, Sutherland, and Hughes while narrator speaks]

Roberts (Matt): The sole purpose of this tax is to pay farmers who reduced their cultivated acreage and destroyed crops. This is not a legitimate tax. A tax, in the general understanding of the term, and as used in the Constitution, signifies an exaction for the support of the government. The word has never been thought to connote the expropriation of money from one group for the benefit of another. This cannot stand! The question is not what power the federal government ought to have, but what powers, in fact, have been given. The Federal union is a government of delegated powers. It has only such powers as are expressly conferred upon it and such as are reasonably to be implied from those granted.

Sutherland (John):The government subsidy regulations go beyond the powers of national

government. This is coercive regulation.

Hughes (Peggy): I'm not so sure I agree this law is an impermissible reach.

Roberts (Matt): Chief, if you agree to join us in this opinion, we will side with you, Brandeis, Cardozo, and Stone in future agriculture cases that involve the General Welfare Clause.

Hughes (Peggy): For such a concession, I could agree to join your opinion.

[Exit Roberts, Sutherland, & Hughes]

Narrator: In a six-three ruling, the Court annihilated FDR's farm program by determining that the Agricultural Adjustment Act was unconstitutional. This decision drew biting criticism from inside and outside the court.

The 1935 term was labeled by Justice Stone as "one of the most disastrous in [the Court's] history." New Dealers decried the Court's actions as "economic dictatorship", and some communities even hanged the justices in effigy.

In 1936 FDR faced and won reelection to the presidency. Following the election, he developed an audacious plan to reconfigure the court with several supporters who would defend his policies. FDR decided to do this by capitalizing on the public's concern about the ages of the justices. At the time of his reelection, the Court was the most elderly court in the nation's history, averaging 71 years.

[Enter FDR and Garner while narrator speaks]

FDR (Travis): I come into your homes and cars today to request you to urge Congress to give me authority to appoint an additional justice for any member of the court over the age of 70. Our judges on our Supreme Court are old. Six of them are 70 or older. These old men have created considerable delay in the resolution of cases before our nation's highest court. Because of this delay we are unable to receive swift adjudication of many of the largest challenges facing this great nation, so I ask you today to urge Congress to give me the authority to appoint six new justices to the high court. These six justices will allow us to ease congestion on the high court's docket and to swiftly administer justice to all who pray for relief before the

Court. The constitution does not define the size of the Court, so I believe Congress has the power to change its size.

Garner (Wayne): Mr. President, you know as your vice-president I support your policies and the direction in which you are leading this country, Sir. But I respectfully cannot support this plan to pack the Court. I agree with you the constitution does not define the size of the Court, but in the Judiciary Act of 1869, Congress established that the Court would consist of the Chief Justice and eight associate justices. Nine jurists on the Court have guided us well for the most part, sir, and adding so many more jurists could have a detrimental effect.

FDR (Travis): Garner, we are going to pack this court with supporters, and you are going to get behind this measure.

[Exit FDR and John Garner]

Narrator: Three weeks after FDR's radio address the Supreme Court published an opinion upholding a Washington state minimum wage law. The 5–4 ruling was the result of the apparently sudden jurisprudential shift by Justice Roberts, who joined with the wing of the Court supportive of the New Deal legislation. This reversal came to be known by some as "the switch in time that saved nine". FDR's court-packing initiative ultimately failed.

FDR would , however, ultimately appoint nine justices to the Court.

The next year in 1938, the Court would begin to chip away at the doctrine of separate-but-equal, thus shifting the extreme emphasis from FDR's New Deal policies.

And in 1944, the court would decide *Korematsu v. United States*, upholding the constitutionality of an Executive Order directing the internment of Japanese Americans at camps during World War II, regardless of citizenship. It was one of the Court's most controversial decisions in history. To date, it has not been explicitly overturned, but the Department of Justice filed an official notice in 2011 conceding the then Solicitor General's defense of the internment policy had been wrong. The decision has been described as a "stain on American jurisprudence." Just this year, the idea was floated to use this case as support for a Muslim registry this country, but scholars and learned individuals have been quick to point out the errors in the decision and its potential use as precedent.

As we enter our next era, the sounds of big bands and swing grow faint. Our country was, once again, reinventing itself.

SLIDE 1950-1975

Rock & roll, economic boom, Baby Boom, the Cold War, Soviets in space, welcome Alaska and Hawaii, sit ins, civil rights, desegregation, Kennedy, riots, wars, peace and love...

*****PLAY TURN, TURN, TURN**

VII: JOHN1950-1975–FACTUAL PRESENTATION using Power Point slides, screen, and music

SLIDE #1: PHOTO of Civil Rights movement.

READ: And here we are at the Vinson Court. The Vinson Court's short seven year tenure is not remembered for significant landmark cases. Though the Civil Rights movement would not begin until 1954 (a year after the Vinson Court ended), The Vinson Court is often remembered for laying the groundwork for the Civil Rights cases heard during the Warren Court during the following decade.

In *Shelly v. Kramer (1948)*, the Court struck down a restrictive covenant which had prevented people of color from purchasing homes in St. Louis.

In *Sweatt v. Painter (1950)*, the Court held that black graduate students must be allowed into "white" state universities and law schools.

Both of these decisions were cited and heavily relied on in *Brown v. Board of Education*, which was initially heard by the Vinson Court in 1952 (and, notably argued before the High Court by eventual Associate Justice Thurgood Marshall). Though most of the Justices wanted to reverse *Plessy* and declare desegregation in schools unconstitutional, the Court was unable to come to a decision by June 1953 when the term ended. The case was set for rehearing in December 1953; however, Chief Justice Vinson died suddenly from a heart attack. With Congress out of session, President Eisenhower (R) made the recess appointment of Republican 3-term California governor, Earl Warren, as Vinson's successor.

THE WARREN COURT (1953-1969)

SLIDE #2: PHOTO of Chief Justice Earl Warren with text over photo that reads "THE WARREN COURT (1953-1969)"

READ: The Warren Court ruled the Supreme Court for 16 years between 1953 and 1969.

Warren remains the last governor appointed to the Supreme Court, the highest elected official appointed to the court since President Taft took the bench, and the last serving politician to be elevated to the Supreme Court.

***Play THE TIMES THEY ARE A CHANGIN'

SLIDE #3: PHOTO mashup of Cold War, Cuban Missile Crisis photo, Vietnam War photo, Civil Rights movement bridge photo, JFK assassination.

READ: The Warren Court presided during one of the most significant time periods in the American history, including the ongoing Cold War (1947-1991), the Cuban Missile Crisis, the Vietnam War (1959-1975), the Civil Rights Movement (1954-1968), and the JFK Assassination (November 22, 1963). At the time, the country was deeply divided over the issue of racial equality.

READ: On Chief Justice Warren's first day in 1953, he was the only Justice on the Court appointed by a Republican President. Nonetheless, the liberal bloc held a slight 5-4 majority with Democratic Justice Stanley Reed often serving as a swing vote. Though a Republican, Warren was a much more liberal justice than anyone anticipated. History remembers him as the leader of a liberal majority that used judicial power in dramatic fashion to change American history forever.

SLIDE #5: PHOTO of Brown v. Board of Education Newspaper cover (1954).

READ: In December 1953 – less than three month's into Chief Justice Warren's recess appointment - the Court heard *Brown v.* Board on rehearing. Though Warren was present for oral arguments, he refrained from speaking to his colleagues about the case until the Senate confirmed him in March of the following year. Thereafter, he convened a meeting of the justices, and presented to them the simple argument that the only reason to sustain segregation was an honest belief in the inferiority of African-Americans. Warren told his colleagues that the Court *must* overrule *Plessy* to maintain its legitimacy as an institution of liberty, and it *must* do so *unanimously* to avoid massive Southern resistance. Shortly, thereafter, Justice Reed dropped his dissent and signed off on the unanimous opinion outlawing school segregation. Though the Warren Court did not render many unanimous opinions, history remembers Chief Justice Warren as a political master who used his skills to

secure unanimous opinions in every single civil rights case heard before his court.

READ: By 1958, Republican President Eisenhower had made four appointments to the Supreme Court shifting the Court to the right. Chief Justice Warren would not regain a solid liberal majority until Justice Frankfurter retired in 1962.

SLIDE #7: PHOTO of Mildred and Richard Loving with overlaid text that read "Loving v. Virginia (1967)"

Another landmark civil rights decision that came before the Warren Court was *Loving v. Virginia (1967)*. The case was brought by Mildred Loving, a black woman, and Richard Loving, a white man, both of whom had been sentenced to a year in prison for marrying each other. Their marriage violated racist Virginia's laws which prohibited interracial marriage. The Supreme Court's unanimous decision determined that this prohibition was unconstitutional, overruling *Pace v. Alabama (1883)* and ending all race-based legal restrictions on marriage in the United States. *Loving* would later be cited as precedent in the 2015 decision *Obergefell v. Hodges* (which held that the fundamental right to marry is guaranteed to same-sex couples).

SLIDE #8: PHOTO of Thurgood Marshall overlaid with text that reads "Justice Thurgood Marshall"

One day after the Supreme Court handed down the Loving decision, President Johnson nominated former Solicitor General of the United States and 2nd Circuit Court of Appeals Judge Thurgood Marshall to the Supreme Court. President Johnson told the country that it was "the right thing to do, the right time to do it, the right man and the right place." Justice Marshall was confirmed by the Senate two months later becoming the 96th person to hold the position and first African-American to join the High Court.

SLIDE #9: PHOTO of Bill of Rights

READ: During its tenure, the Warren Court decided several landmark Bill of Rights cases:

In *Engel v. Vitale (1962), the Court* held that officially sanctioned prayer in public schools to be unconstitutional.

In *Abington v. Schempp (1963)*, the Court struck down mandatory bible readings in public schools.

***In New York Times v. Sullivan (1964)* the Court established that the actual malice standard must be met before press reports about public officials can be considered defamation and**

libel. And,

***In Brandenburg v. Ohio (1969),* the court held that the Govt. cannot punish inflammatory speech unless that speech is "directed to inciting or producing imminent lawless action and is likely to incite or produce such action."**

SLIDE #10: PHOTO of "Stop and Frisk"

READ: The Warren Court also expanded and incorporated the rights of criminal defendants on the basis of the 4th, 5th, and 6th Amendments.

In *Mapp v. Ohio (1961),* the Court ruled that illegally seized evidence could not be used in a trial under the 4th Amendment.

***In Gideon v. Wainwright (1963),* the Court held that the States were required to provide publicly funded counsel to all indigent defendants.**

***In Miranda v. Arizona (1966)* held that the police must inform suspects of their rights before being interrogated. And,**

***In Terry v. Ohio (1968)* – 4th Amendment is not violated when police officers stop and frisk a suspect on the street if the officer has reasonable suspicion.**

SLIDE #11: PHOTO of birth control pills with overlaid text that reads "Griswold v. Connecticut (1965)"

READ: The Warren Court also heard cases involving individual liberties.

In *Griswold v. Connecticut (1965)* –the Court struck down a Connecticut law that prohibited the sale or use of contraceptives thereby establishing a Constitutional right that protects the right to privacy (and protection from government intrusion). This decision was fundamental for the outcome of *Roe v. Wade* (1973) eight years later.

READ: Upon Chief Justice Warren's retirement in 1969, the Court had regained a liberal majority, but with only 8 justices since 1 retired.

READ: In June 1969, President Nixon appointed Warren Burger to be the 15th Chief Justice of the United States. When Burger was nominated for the Chief Justiceship, conservatives expected that the Burger Court would rule quite differently from the liberal Warren Court and might even overturn controversial Warren Court era precedents. It soon became clear that would NOT be the case.

*****PLAY KASHMIR**

SLIDE 15: PHOTO mashup of Cold War, Vietnam War, Woodstock, Nixon giving peace sign.

READ: The first five years of the Burger Court saw the Court preside over the country during the end of the Cold War (1947-1991), the Vietnam War (1959-1975), Woodstock (1969), the Watergate scandal (1972) and Nixon's resignation (1974).

S

Like the Warren Court before it, the Burger court continued to play a more activist role in cases involving individual liberties.

For example, in Einstadt v. Baird (1972) the Court struck down a Massachusetts law that allowed for contraceptives to be sold to married people only.

SLIDE 17: PHOTO of "Fuck the draft"

READ: The Burger Court also issued several landmark decisions regarding the First Amendment:

In *Cohen v. California (1971)*, the Court overturned the conviction of a California man who had worn a jacket that said "FUCK THE DRAFT" inside an L.A. courthouse. The Court held that the protest shirt was speech (not conduct) and, thus, was protected speech under the 1st Amendment.

In *Lemon v. Kurtzman (1971)*, the Court established the "Lemon test" for determining if legislation violates the establishment clause thereby striking down a Pennsylvania law that allowed the Superintendent of public schools to reimburse mostly Catholic private schools for the salaries of teachers who taught at these schools.

In *Miller v. California (1973)*, the Court redefined its definition of obscenity from that of "utterly without socially redeeming value" to that which lacks "serious literary, artistic, political, or scientific value." It is now referred to as the 3-prong "Miller test" for laws banning obscenity.

SLIDE 18: PHOTO of electric chair.

READ: The Burger Court also weighed in on capital punishment. In 1972, the Court established a moratorium on capital punishment in *Furman v. Georgia (1972)*, holding that states generally awarded death sentences arbitrarily and inconsistently. The moratorium, however, was lifted four years later in *Gregg v. Georgia (1976)*.

SLIDE 19: PHOTO Nixon giving peace sign.

READ: The Burger Court also weighed in on the limits of the power of the U.S. President. In

***United States v. Nixon (1974)*, the court ruled that the courts have the final voice in determining constitutional questions and that no person, not even the President of the United States, is completely above law. Nixon resigned 16 days after the Court's ruling.**

SLIDE 20: PHOTO Roe v. Wade case

READ: In *Roe v. Wade (1975)*, the Court ruled that abortion is a fundamental right protected under the Due Process Clause. The Roe decision deeply divided the country into pro-life and pro-choice camps which remain to this day. Its controversial holding is also partly responsible for the public's increased awareness about the Supreme Court.

By 1975, the Burger Court had shifted to a 5-4 majority in favor of the conservative bloc of the Court

Narrator: Indeed the 50s, 60s, and early 70s were tumultuous, but extraordinarily transformative for our nation. They changed us. We began to live as a freer people, with recognized rights for significantly more of us. We began to see each other differently–we began to SEE each other. We were far from perfect and there was much to be done–still is-- but we were moving forward.

Moving toward a time of more peace and prosperity–after some difficult times, including the Iran hostage crisis and mounting inflation, things began to stabilize–the country recovered from a recession, the Cold War ended, people began to prosper...even becoming excessive...big hair, big cars, big houses, big dreams...MTV... Pac Man...Molly Ringwald...preppy, punk... no global warming...the internet, the world wide web...life was fun...well, mostly.

To give us some insight into how all of these changes–and many more–were playing out in the court, let's peek in on a private moment with two of our favorite justices, William Rehnquist and Sandra Day O'Connor as they recount some high points from their days together...

SLIDE: 1975–2000

VIII: REHNQUIST and O'CONNER CONVERSATION (Wayne and Peggy in robes)
(Keep Slide noting 1975-2000 up whole time)

William Hubbs Rehnquist (WAYNE)

I am "William 'Hubbs' Renquest. It's a family name, because a numerologist told my mother that I would be successful with a middle initial of H. And mother knows best as I had a tremendous career.

I served on the Supreme Court of the United States for 33 years–not quite as long as William Douglas, who hogged a seat for 36 years, but close. I was first as an Associate Justice from 1972 to 1986, and then the 16th Chief Justice of the United States from 1986 until my death in 2005. I served as chief justice for nearly 19 years, making me the fourth-longest-serving chief justice and the longest-serving chief justice who had previously served as an associate justice. The last 11 years of my term as chief justice (1994–2005) marked the second-longest tenure of a single unchanging roster

of the Supreme Court, exceeded only by those guys who sat from 1812 to 1823.

Sandra Day O'Conner (PEGGY)
I am Sandra Day O'Conner and as you know I retired in 2006 as associate justice of the Supreme Court of the United States after serving from my appointment in 1981 by Ronald Reagan. I was the first woman to serve as a Justice of the Supreme Court of the United States. I attended Stanford University, I received my B.A. in economics in 1950 and continued at the Stanford Law School for my LLB. There, I served on the *Stanford Law Review* with its presiding editor in chief, future Supreme Court Chief Justice William Rehnquist (wink wink), who was the class valedictorian, and, more notably, a young man I briefly dated in those days.

I graduated third in my law school class, although Stanford's official position is that the law school did not rank students in 1952. (eye roll) After graduation from law school, at least forty law firms refused to interview me for a position as an attorney simply *because I was a woman*. I recall my friend Ruth Bader Ginsburg telling me about her moment at Harvard when she–newlywed, raising a child, working on law review, and handily sailing through law school as only one of 9 women enrolled was asked by the dean how she justified taking a spot in the class from a qualified man. Can you believe? Well, I could relate. I eventually found employment as a deputy county attorney in San Mateo, California, after I offered to work for no salary and without an office, sharing space with a secretary.

On July 7, 1981, Reagan – who had pledged during his 1980 presidential campaign to appoint the first woman to the Court– announced he would nominate me as an Associate Justice of the Supreme Court. I received notification from President Reagan of my nomination on the day prior to the announcement and did not know that I was a finalist for the position.

From day one out of law school, I faced gender discrimination. When I was finally in a position to have my voice heard, I spoke…..

In response to an editorial in *The New York Times*, which mentioned the "*nine men*" of the Court, I, the FWOTSC (First Woman On The Supreme Court) sent an informational letter to the editor, wherein I stated:

> According to the information available to me, and which I had assumed was generally available to the public, for over two years now SCOTUS has NOT consisted of nine men. If you have any contradictory information, I would be grateful if you would forward it as I am sure the POTUS, the SCOTUS and the undersigned (the FWOTSC) would be most interested in seeing it.

Rehnquist

Speaking of taking a stand, I think you will agree our court had a shift and began taking a stand for individual rights, wouldn't you agree?

For example, in *Batson v. Kentucky*, back in '75, we stopped the preclusion of women from jury service on the basis of having to register for jury duty... and in '86, we stopped the use of peremptory challenges to dismiss jurors based on their race...Unfortunately, we dragged our feet a bit in this country and did not stop the use of those same peremptory exceptions based on sex until 1994. Better late than never, right?

O'Connor

We as a court and a nation, we took entirely too long to address sex discrimination issues, if you ask me. They should be long behind us by now. In any event, we'll get there. Speaking of '86, that was the court's first sexual harassment claim–remember? We said that sexual harassment that is severe or pervasive creating a hostile work environment violates Title VII. We handled a good bit of issues based on sex and race... speaking of race, remember upholding it as one of the factors that may be considered for college admissions in that Bakke case back in '78?

I am very proud that we expanded our view on individual rights by knocking down that Colorado constitutional amendment preventing homosexuals and bisexuals protections under the law. Remember that one? Romer v. Evans in 1996.

We also began seeing issues related to end of life rights–that was new stuff. We mostly held prohibitions were ok. Tough stuff.

Rehnquist

Yes. Hey, how about all of the criminal stuff we handled? In *Strickland v. Washington*, we set the bar high for criminal defendants to win ineffective assistance of counsel cases. Big one.

And we upheld lots of capital punishment statutes...

And then there were state's rights.–ah, the Rehnquist 5..and the freedom of religion cases...and those cases where we got mixed up with the president's issues, Nixon and his papers, Clinton's presidential immunity, impeachment...heck, we even picked a president! And the First Amendment! What is indecent? And flag burning...Oh, and that's when we opened the door we maybe should have left closed in that Buckley in '76. We said federal limits on campaign contributions are unconstitutional. Remember Byron White's dissent where he warned against unlimited campaign spending as the "mortal danger against which effective preventative and curative steps must be taken"? Maybe he was right...what a can of worms.

O'Connor: For sure. My goodness, we were busy. And all over the board on issues, weren't we? Well, our time here is done, let's ride off into the sunset.

Rehnquist: Too bad that dating thing didn't work out...we would have been quite a power couple.

O'Connor: Stop.

Narrator: As you can see, the late 70s through the 90s were a pinball machine of cases and issues. The court was all over, new issues popping up with each term. They had their hands in it all...even in places some aren't so sure they belonged, like presidential elections. In any event, we have come to modern day where our court of currently 8 now holds 3 women, including Justice Sonia Sotomayor, the first Hispanic justice. The 9th seat has been vacant since Justice Antonin Scalia's death on February 13, 2016. Merrick Garland, President Obama's nominee to succeed Scalia grabbed the record for longest Supreme Court nominee wait for a Senate hearing. Louis Brandeis held the record up until then.

As for longest periods to replace, the record stands at 841 days when Justice Henry Baldwin died on April 21, 1844, but was not replaced until August 10, 1846. In modern ties, the longest was the 391 day period it took for Harry Blackmun to replace Abe Fortas back in June 1970...until now.

Speaking of modern day...

SLIDE: 2000-2017

IX. MODERN COURT (Presented by holding up simple signs on poster board with members in same color t-shirt, members in line–step forward, hold up sign and say your line. Then step back in line so as to not disrupt the focus on the next person.)

Sign: Winner! (?)

Say: Thanks to hanging chads and the Supreme Court's ruling in *Bush v. Gore, I was president.* ***The Court held the recounts of the 2000 Florida presidential election should be halted because the manual vote recounts were unconstitutional and no alternative method could be established within the time limit set by law.***

Sign: I'm gay!

Say: Thanks to *2003's Lawrence v. Texas,* ***which overturned the 1986 case of*** *Bowers v. Hardwick,* ***I can't be sent to jail for relations with my partner. The Supreme Court held that criminalization of intimacy between gay couples, but not heterosexual couples, violated the United States Constitution right to privacy. And in 2015, the Court in*** *Obergefell v. Hodges* ***gave me the right to marry my partner, even if we are the same sex.***

Sign: I'm a SuperPAC!

Say: Thanks to the Supreme Court's 2010 decision in Citizens United v. Federal Election Commission, groups like me spent over $1.1 BILLION dollars on elections last year. And you thought your vote counted...

Sign: I have healthcare!

Say: Thanks to the court's 2012 decision in National Federation of Independent Business v. Sebelius, upholding ***Congress' power to enact most of the provisions of the Affordable Care Act, including the healthcare mandate, I have coverage.***

Sign: I make my own rules!

Say: Thanks to Shelby County v. Holder in 2013, which struck down two provisions of the Voting Rights Act of 1965, states and localities like me no longer need federal approval to change voting laws.

Sign: I'm packing heat!

Say: Thanks to *2008's District of Columbia v. Heller,* ***I can carry a handgun. The Court held that the Second Amendment protects an individual's right to possess a firearm without regard to its connection to service in a militia. Be careful out there...***

Narrator: So, as you see, the Supreme Court's road has been full of twists and turns. And quite a few bumps. But a look at the forest, instead of the trees, shows a consistent forward movement, despite the pitstops and occasional bad turns. Today we stand, yet again, on the precipice of change. Are we in such a different place or is this just one more section of a road well traveled? We shall see.

Philip and I will be presenting together in a back and forth presentation with lots of playful banter and the antics of two young Bearded Barristers. We will be wearing robes and wigs until we throw them off because Thomas Jefferson said they were dumb.

I. Judiciary Act of 1789

Congress passes the Federal Judiciary Act, making provisions for the organization and operation of the Supreme Court as well as the federal district courts. Although called for by the Constitution, the Court could not come into operation prior to this legislation. The act sets up a Court with one chief justice and five associate justices, and makes the justices personally responsible for presiding over circuit courts set up on a regional basis throughout the country.

A. The act sets up a Court with one chief justice and five associate justices, and makes the justices personally responsible for presiding over circuit courts set up on a regional basis throughout the country.

B. **Supreme Salaries:**
When the Supreme Court was established in 1789, the chief justice earned $4,000 a year in wages, while associate justices made $3,500. By 2010, those numbers had increased to $223,500 and $213,900, respectively.

C. **Honorable Handshakes:**
Before taking their seats at the beginning of each session, the Supreme Court justices exchange a so-called "conference handshake" with one another. Chief Justice Melville W. Fuller introduced the practice in the late 1800s as a reminder that, no matter how much their opinions may differ, the members ultimately share a common purpose.

D. **Wig Party:**
Like their counterparts in the United Kingdom, American Supreme Court justices wear dark robes while sitting on the bench. Wigs, on the other hand, are not required, thanks in part to Thomas Jefferson. When Justice William Cushing arrived at the Supreme Court's first session in 1790, proudly sporting a powdered hairpiece, Jefferson issued a scathing critique of his fashion faux pas: "If we must have peculiar garbs for the judges, I think the gown is the most appropriate. But, for heaven's sake, discard the monstrous wig, which makes the English judges look like rats peeping through bunches of oakum."

II. After John Jay declined **George Washington**'s offer of the position of Secretary of State, the President then offered Jay the new opportunity of becoming **Chief Justice of the United States Supreme Court in 1789**, which Jay accepted. He was unanimously confirmed on September 26, 1789 and remained on the bench until 1795. As this was an inaugural position, many of Jay's duties involved establishing rules, procedure, and precedents. The most famous case he presided over was ***Chisholm v. Georgia*** (1793), most commonly associated with the introduction of **judicial review, and allowing federal courts the authority to hear cases in law and equity brought by private citizens against states**. However, the court decision was later overturned by the ratification of the Eleventh Amendment.

III. 1790

A. On February 2, the Supreme Court holds its first public session in the Royal Exchange, at the foot of Broad Street in New York City. No cases are docketed for argument during the Court's first three terms, and -- besides the onerous travel commitments associated with circuit riding -- the justices have very little to do in the first years.

B. **1791**
The Court then follows the other branches of government as the nation's capital moves from New York to Philadelphia. It holds its sessions first in Independence Hall, then in a room in the newly built City Hall.

IV. 1800

A. The nation's capital moves again, this time to Washington, D.C. Due to an oversight indicative of the Supreme Court's low prestige, no plan is made for a Court building or accommodations. The Court moves into a space that had been originally intended for use by a House committee

1. The Court is barely able to function due to numerous absences on the bench. Chief Justice Oliver Ellsworth is in France, William Cushing is sick, and Samuel Chase is away in Maryland, working on the campaign for President John Adams's reelection.

B. In 1800, President John Adams renominated Jay to the Supreme Court. Jay was confirmed by the Senate, but he declined the offer, **stating that the Court lacked "energy, weight and dignity."**

C. When the Federalists were defeated in 1800, the lame-duck Congress reduced the size of the court to five — hoping to deprive President Jefferson of an appointment. The incoming Democratic Congress repealed the Federalist measure (leaving the number at six), and then in 1807 increased the size of the court to seven, giving Jefferson an additional appointment.
1. Thomas Jefferson elected in 1800
2. John Marshall was sworn in on February 4, 1801
3. Thomas Jefferson sworn in on March 4, 1801

V. John Marshall, C.J.

A. President John Adams appointed John Marshall to the Supreme Court in early 1801.

B. On assuming his duties on March 5, Marshall took immediate action to strengthen the power of the Court. Thomas Jefferson was coming into office as president, and his party dominated Congress. Because Jefferson's party opposed central federal powers, **Marshall feared his Court could be ignored and marginalized.**

He persuaded the justices to support a single majority opinion in all cases to make the voice of the Court more authoritative.

C. ***Marbury v. Madison*** (1803), the unanimous Court, in a decision devised and written by Marshall, overturned an act of Congress for the very first time, on the grounds that it conflicted with the Constitution. It was a daring step for the politically vulnerable Court, but Marshall crafted the opinion in such a way that even Jefferson could not reject it. What resulted was a founding principle of American political life

1. The Constitution is a set of laws that the courts may interpret, and the Supreme Court may declare null and void any new law that conflicts with the "laws" of the Constitution.

2. Marshall would never again void a federal law, but the series of forceful, well-argued decisions issued by his Court over the following years created a unified body of constitutional doctrine and established basic principles of federal power that have survived to the present day.

3. In his later years he increasingly shared power with his fellow justices and often curbed his opinions in order to arrive at consensus decisions. However, he never relinquished his leadership of the Court.

D. After only a six-week lecture course at William & Mary College in 1780, Chief Justice John Marshall's only formal legal training, John Marshall became one of the greatest Supreme Court Justices, establishing the model against which all future chief justices would be measured.

E. John Marshall dominated the Court from 1801 until his death in 1835, from injuries sustained in a stagecoach accident.

1. *Unfortunately, Marshall did not have UM coverage and his family had to settle for minimum policy limits.*

VI. 1803

The Court issues the landmark decision Marbury v. Madison, declaring sections of the Federal Judiciary Act of 1789 unconstitutional. Although state and lower federal courts had previously invoked the principle of judicial review, the Marbury decision marks the Supreme Court's first use of the doctrine to invalidate federal legislation on constitutional grounds. While the Court reviews numerous federal statutes in the coming decades, it does not again exercise the authority to invalidate a federal statute until 1857 -- when it holds the 1820 Missouri Compromise unconstitutional in the case Dred Scott v. Sandford.

VII. Samuel Chase was the only Supreme Court justice to be impeached. The politically motivated charges failed in the Senate, however, in 1805.

VIII. Jeffersonian Republicans in the House vote to impeach Justice Samuel Chase, a Federalist justice since 1796. Republicans found their impeachment drive on the contention that Chase is "arbitrary, oppressive and unjust"; Chase counters that their effort is politically motivated and unrelated to the stated charges that he has committed "high crimes and misdemeanors." Ultimately acquitted by the Senate, Chase remains on the Court until his death in 1811. His acquittal sets a strong political precedent for an independent judiciary -- and for judicial discretion.

IX. The incoming Democratic Congress repealed the Federalist measure (leaving the number at six), and then in 1807 increased the size of the court to seven, giving Jefferson an additional appointment.

X. 1811

President James Madison appoints Joseph Story to the Court. Story, only 32 at the time, remains the youngest justice ever to have served on the Court.

A. The youngest person ever to join the Court, Story soon disappointed his political sponsors and aligned himself with Marshall. Where Marshall was a middling legal scholar at best, Story was erudite, and he contributed significantly to decisions that laid the legal foundations of federal power.

1816

B. In Martin v. Hunter's Lessee, the Court reasserts its power to review and overturn state court decisions touching on federal questions. The decision, written by Joseph Story, issues a strong rebuke to the high court of Virginia, which, in seeking to ignore an earlier U.S. Supreme Court decision, had claimed that its decisions were not constitutionally subject to federal review.

1. Confirms that all State Court decisions are subject to SCOTUS review for constitutionality.

XI. 1835

Following Chief Justice John Marshall's death on July 6, President Andrew Jackson nominates Roger Taney to fill the position. Taney, a former Cabinet member in the Jackson administration and an instrumental aide in Jackson's attack on the Second Bank of the United States, is confirmed after three months of political wrangling.

A. **1837**

In 1837, The Taney Court issues its first major decision, Charles River Bridge v. Warren Bridge. The decision upholds the right of the Massachusetts legislature to charter the Warren Bridge Company to build an additional bridge across the Charles River in Boston. The Charles River Bridge Company, which since 1785 had held the sole such charter in Boston, had claimed that the new charter was an infringement of its contract rights. Taney's decision, which declares that "the happiness and prosperity of the community" may take priority over individual property rights, is a sharp departure from many of the precedents of the Marshall Court.

B. **The Charles River Bridge decision became the first SCOTUS opinion to feature a dissent, written by Justice Story.**

C. The Taney Court was also known for causing the only justice ever to resign on a matter of principle. The Dred Scott decision caused so much resentment between the Justices, specifically Chief Justice Taney and Associate Justice Benjamin Robbins Curtis, that Curtis resigned from the bench as a matter of principle.

XII. In 1837, the number was increased to nine, thereby affording the Democrat Andrew Jackson two additional appointments.

XIII. During the Civil War, to insure an anti-slavery, pro-Union majority on the bench, the court was increased to 10.

XIV. When a Democrat, Andrew Johnson, became president upon Lincoln's death, a Republican Congress voted to reduce the size to seven (achieved by attrition) to guarantee Johnson would have no appointments.

XV. After Ulysses S. Grant was elected in 1868, Congress restored the court to nine. That gave Grant two new appointments. The court had just declared unconstitutional the government's authority to issue paper currency (greenbacks). Grant took the opportunity to appoint two justices sympathetic to the administration. When the reconstituted court convened, it reheard the legal tender cases and reversed its decision (5-4).

XVI. Bush v Gore wasn't the first election that the Supreme Court was asked to assist in deciding. 1877 Five Supreme Court justices, in conjunction with five senators and five representatives, participate in a joint electoral commission to end a stalemate in the contested 1876 presidential election. The commission votes 8-7 along party lines to award all disputed electoral ballots to the Republican candidate, Rutherford B. Hayes, who had not won the popular vote. For their promise not to oppose this vote, the southern Democrats exact a promise from the Republican majority in Congress not to use the national authority to enforce the rights of black Americans against southern states.

XVII. 1882 Senator David Davis, a former Supreme Court Justice from 1862 to 1877, introduces a special bill in Congress to allow Associate Justice Ward Hunt early retirement benefits, on the condition that Ward resign from the Court within 30 days of the bill's passage. Although Hunt had not participated in any Court proceedings since suffering a stroke in 1878, he had refused to retire until he was eligible to receive full retirement benefits (at the time, 10 years' service was required for vestment). Hunt turns in his resignation within hours of the bill's passage.

XVIII. 1891

Since the Judiciary Act of 1789, Supreme Court justices have "ridden circuit," a duty that required them to spend a majority of the year traveling to sit as trial judges in circuit courts. Although the Judiciary Act of 1891, which establishes the U.S. Court of Appeals, does not specifically relieve the justices of this duty, in practice they are no longer expected to sit in these courts. The circuit courts are formally abolished in 1911.

ROLES and MEMBERSHIP CATEGORY

Pierce Butler—Master

Charles Hughes—Master

Owen Roberts—Master

VP John Garner—Master

Fact Presenter—Barrister

William Rehnquist—Master

Sandra Day O'Conner –Master

Sign Holders (6)—2 Associates, 3 Masters, 1 Barrister

NOTE: Although it appears in the listing that a large number of members are needed to present this program, that is not the case. We presented with 8 members, each playing various parts in the different scenes throughout the program.

AGENDA OF PROGRAM Cont.

Scene 7 (Part IX)—7 to 8 minutes

RELEVANCE /ELEMENTS OF MISSION

Our program was a look back, an exploration of today, and a view to the future. We explored our legal history, society's journey, and the role of the Supreme Court in both. In doing so, we served multiple mission goals. First, as Santayana wrote, "Those who cannot remember the past are condemned to repeat it." Our program brought history to life in an effort to remind people of how far we have come and how we, as a profession, have a duty and obligation to carry forward. We found the topic particularly relevant as we were in the process of choosing a new Supreme Court justice this past March. The topic will remain relevant always as this is a repetitive practice. Additionally, it is always important as lawyers and human beings to be mindful of our past. Instilling a sense of connection to our past and duty to our present and future serves the mission of the American Inns of Court by fostering excellence in professionalism and ethics.

Further, the mission of fostering excellence in civility was served through our method of presenting history and the twisting road of social and legal change by focusing on the big picture and our common ground as a society. In today's politically polarized world, we made no political statement, but instead focused on factual history and common humanity. We left a big question to ponder at the end of the program for each person to land in a common place without the need or desire to defend or advocate a position . Thus, fostering civility and a better mindset. One of the most meaningful compliments we received was from 2 members who came up to me together—these people are political opposites in life, but both congratulated our team on our Inn leaving that room more united and better educated, despite the potential for political arguments that could have arisen from a program with such political, social, and legal content. They said it was both thoughtfully and artfully written.

I believe the mission of the American Inns of Court is well served through our program.

HOW WAS THE PROGRAM CAPTIVATING OR FUN?

One of the most noted aspects of our presentation by every Inn member who responded was, "you could hear a pin drop in that room the entire time." This is unusual as we have a very social Inn! I believe this is a clear demonstration of how captivating our program is.

We captured our audience by having a sensational start which reenacted the first Supreme Court session followed immediately by a modern day television commercial lobbying for then Judge Gorsuch. These incredibly different moments in history peaked the interest of the audience and immediately caught their attention. We then held that attention for a full hour through the presentation of interesting historical and legal information through individual vignettes, weaving our way through the Supreme Court years since its inception. We showed them how we got from Point A (first session) to Point B (today)…and let them think about where we are going. Each small presentation flowed thoughtfully into the next through well written narration which kept our historical presentation meaningfully and logically connected. Further, each individual scene was set in a different era and we brought the audience to those eras through music and visual tools using the powerpoint presentation, costumes, and props. No one time period looked or felt like any other. For our final scene, we grabbed the audience through a dramatic display and left them with a question to ponder.

LEGAL ISSUES

As described in the detailed descriptions set forth throughout this submission, our program presented historical and modern day legal issues through time period appropriate vignettes consisting of skits, monologue, factual presentation, music, and dramatic presentation. We covered the entire Supreme Court history from its inception to modern day. We demonstrated the intertwining of societal views and legal issues through landmark cases and compelling factual presentation.

INTERESTING and CHALLENGING

As discussed on Pages 3 and 4, the program was interesting to our members in both content and creative presentation. They were brought on a historical voyage focusing on our Supreme Court, looking at both the legal aspects and the intertwining with society and changing views. We left them pondering the future. We also left them contemplating our common journey as lawyers and human beings, which is both challenging and rewarding. We received countless compliments and positive reviews on both the rich content and the unique and imaginative presentation style. As noted on page 4, the audience was completely silent and gave us their full attention throughout our entire program. Not a single cell phone in sight! As a very vocal and social Inn, this was the biggest compliment of all.