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Suggested Teaching Methods

INTRODUCTION

The material in this unit is a synthesis of the suggestions and observations on methods of teaching law to high school students made in High School Legal Education, Volume 2, Number 1, of the *Golden Gate Law Review*, 1972. That volume is about a project in which law students from Golden Gate School of Law were used as tutors in combination with San Francisco Bay Area high school teachers in a team-teaching effort to teach basic legal concepts. While many of the observations made in that volume relate to the problems encountered in that particular project, the suggestions included here deal with general methods of presentation of legal material, hopefully adaptable to the classroom situation of any teacher.

The high school text written by this year's Law Review is designed to be totally self-contained. A class discussion of the questions and issues presented by each unit is anticipated as all that is necessary for student understanding of the material. However the methods discussed here are suggested ways to supplement the material found in the student text printed in this volume. In this way a variety can be added to class periods, and students will not become bored with the monotony of classroom discussions.

The 1972 project explored several methods of presentation of law material. One method should not be used to the exclusion of others. A combination of methods can be used to improve the student's understanding of the law and the legal process. Law is a difficult subject to learn, and even more difficult to teach. Because it consists of abstract concepts and theories, it is best to keep legal instruction as fact-oriented as possible. That provides the students with situations that aid in the conceptualization of legal theory.

To demonstrate that the law is a part of the students' daily lives, every effort was made to employ student knowledge of current events. For example, when the project class began its study of the 1st Amendment, one school was embroiled in a controversy over the school administration's right to censor the school newspaper. In another class the tutor used the "Pentagon Papers" to demonstrate the application of the 1st Amendment. Students were required to actively participate. Some were asked to find contracts at home when studying contract law, or to relate landlord-tenant problems they had experienced.

The goal of the teachers and tutors was to interest and involve as many students as possible in each discussion. Student interest can best be sustained by using a discovery-oriented teaching method, and by allowing students to use the information taught in a practical manner—for example, by analyzing a real contract brought from home to spot the warranties, disclaimers, interest charges, and other terms.

The following sections deal with various methods used by the teachers and tutors in the 1972 project. They are discussed as separate methods here, but in the project report the methods are discussed in combination, as they were used to present a particular legal topic.

THE CASE STUDY METHOD

The case study method is widely used in law schools throughout the country. It involves reading the opinion of a court in an actual case to determine the law on the particular issue presented by that case. As a practical point, case study as a method for high school instruction presents one major problem. Each student should have a copy of the court's decision in each case being studied. There are some high school level case books available, but they usually only summarize briefly the court's holding, so that the student does not get to read the court decisions. It may be difficult for a teacher to find and reproduce the actual court decisions necessary for teaching an entire subject. But it may be possible to use the case study method for particular sections within a given subject. Case study is necessary for a moot court. Also, the 1st, 4th, 5th, and 6th Amendments lend themselves well to the case study method of instruction at the high school level.

The case study method may be approached in different ways. An entire case may be assigned for reading and then discussed in class. A variation is to study only the facts of the case, hold a classroom discussion, and have the class reach a decision. The class decision should then be compared to the actual court decision.

The analysis of a case consists of four main steps:

- (1) What are the significant facts?
- (2) What legal issue is presented?
- (3) What was the court's decision?

- (4) What was the court's rationale?
Two sample case analyses are given below.

GIDEON v. WAINWRIGHT
372 U.S. 335 (1963)

- Facts:** What crime did Gideon commit?
Was it a serious crime?
Is Florida's law, limiting the right to court-appointed counsel only in capital offense cases, a sensible law?
- Issue:** What legal issue is involved?
Is the right to counsel a fundamental right that everyone should enjoy?
- Decision:** What did the Court decide?
What legal rule emerges from this case?
- Rationale:** What reasons did the Court give for its decision?
Before this case, were all defendants equal before the law?
After Gideon, are they?
Do you agree with the results of this case? Why?

MIRANDA v. ARIZONA
384 U.S. 436 (1966)

- Facts:** Who was Ernesto Miranda?
What crime was he accused of committing?
Was his confession really voluntary? How was it obtained? Did he know his legal rights?
- Issue:** What legal issue is raised?
Why was the 6th Amendment right to counsel included in the Bill of Rights?
Did Miranda need a lawyer?
- Decision:** What are the arguments favoring Miranda's position?
What are the arguments favoring Arizona's position?
Should the Supreme Court have reviewed the case?
What was the Court's decision?
- Rationale:** What reasons did the Court give for its decision?
Do you agree with the decision? What effect do you think this decision will have upon the rights of the

individual? Upon the police? Will it hamper law enforcement?

For teachers interested in using the case study method for the 1st, 5th, and 6th Amendments, or in having a moot court deal with issues presented by those Amendments, the cases in Appendix I, page 331, and Appendix II, page 386, Volume 2, Number 2 of the 1972 Golden Gate Law Review were designed to strike a balance between most overly abridged secondary school legal education materials and the long and often complex opinions of the Supreme Court. These cases are offered for use as text or as examples of text for a case study method.

LECTURE AND DISCUSSION

All of the 1972 project law student-tutors criticized the lecture method because it often left students disinterested. There is a danger that the teacher may rely on the lecture as the most expedient method of instruction, since it requires less planning and preparation than some of the other methods. While it may be easiest from the teacher's point of view, a lecture may deprive the student of the excitement and enthusiasm that other methods may afford.

The best use of lecture during the 1972 project was in the form of introductory or background material to subject matter about to be studied. The lecture was then followed by a more active student participation activity. Some subjects, however, do not lend themselves readily to any other form of communication, and will require additional effort on the part of the teacher to involve the student.

For example, when studying contract law, the students were asked to locate different kinds of contracts at home and to bring them to school. When the students returned with contracts for the purchase of home appliances, radios, televisions, and various insurance contracts, the law student-tutor asked the high school students to find the contract warranties, disclaimers, interest charges, and other terms of the contracts. Other tutors wrote their own contracts, which the class analyzed. Another example, in the area of consumer protection, was to demonstrate how a federal agency deals with a consumer problem. The tutor focused on the Federal Trade Commission, and asked the class to consider the problem of deceptive advertising on television. Nearly every student in the class, including those who normally did not participate in class discussion, was eager to describe a commercial that he or she considered deceptive.

FILMS

The use of films in the 1972 project was limited to topics dealing with the Bill of Rights. This was not done by choice, but because of the limited availability of films on other subjects. The films were used only in the introductory stages of a topic. Sometimes a lecture on the creation and purpose of the Amendment in question was given before the film; occasionally, the film was shown to introduce the material and stimulate interest.

Two excellent films, *The Bill of Rights in Action—Freedom of Speech*, Film Associates, and *The Bill of Rights: A Series—Speech and Protest*, Churchill Films (see Audio-Visual Aids listed below), encouraged student discussion by dramatizing free speech issues, and by asking the students to judge the cases depicted based on the arguments presented. The students, teachers, and tutors in the 1972 project agreed that the films effectively dramatized free speech issues and led to lively discussions.

In the 1972 project report, it was suggested that role playing activities be filmed or video-taped at those schools having such facilities. The possible uses for such films and tapes is not further discussed in the project report. A teacher with access to such equipment will be able to determine its best use in light of the availability of such equipment.

The following list is included as an introduction to some of the films available for teaching legal principles to high school students; it is not meant to be exhaustive.

FILMS

- Basic Court Procedures, 13-½ minutes, black and white. Coronet Films. (6th Amendment)
- The Bill of Rights: A series, 22 minutes each, color. Churchill Films.
- Interrogation and Counsel. (5th and 6th Amendments)
 - Justice, Liberty and Law. (1st, 5th, and 6th Amendments)
 - Search and Privacy. (4th Amendment)
 - Speech and Protest. (1st Amendment)
- The Bill of Rights in Action Series, 22 minutes each, color. Film Associates.
- Due Process of Law. (5th Amendment)
 - Equal Opportunity. (14th Amendment)
 - Freedom of Religion. (1st Amendment)
 - Freedom of Speech. (1st Amendment)
 - The Right to Privacy. (4th Amendment)
 - The Story of a Trial. (The Bill of Rights)
- The Constitution and Fair Procedure, 29 minutes, black and white. Indiana University Audio-Visual Center. (6th Amendment)
- Due Process of Law Denied, 25 minutes, black and white. Teaching Film Custodians. (6th Amendment; an excerpt from the Oxbow Incident)
- The Judicial Process—Trial by Jury, 30 minutes, black and white. Encyclopedia Britannica. (6th Amendment)
- Justice Black and the Bill of Rights, 32 minutes, black and white. Bailey-Film Associates. (The Bill of Rights)
- Justice Under Law: The Gideon Case, 23 minutes, black and white, and color. Encyclopedia Britannica Educational Corporation. (6th Amendment)
- Procedural Due Process, 30 minutes, black and white. Encyclopedia Britannica Educational Corporation. (6th Amendment)
- Right to Counsel: The Gideon Case, 30 minutes, color. Encyclopedia Britannica Educational Corporation. (6th Amendment)
- Right to Legal Counsel, 14 minutes, color. Bailey-Film Associates. (6th Amendment; discusses Gideon)
- Trial by Jury, 30 minutes, black and white. University of Washington. (6th Amendment)
- True and Just, 30 minutes, black and white. Indiana University Audio-Visual Center. (6th Amendment; explains the American jury system)

FILMSTRIPS

The Bill of Rights: Its Meaning Today, color. Bailey Films, 1959.

(A series of five filmstrips that show what could happen if there were not a Bill of Rights to protect individual liberties. One strip deals with each of the following amendments: 1, 4, 5, and 8.)

History of American Negro Series, photo-sound. McGraw-Hill. (A series of eight filmstrips tracing the history and contributions of Negro Americans.) The separate strips are as follows:

- No. 1: From Africa to America
- No. 2: Slavery in the Young American Republic
- No. 3: Slavery in a House Divided
- No. 4: Negro in the Civil War and Reconstruction
- No. 5: The Negro Faces the Twentieth Century
- No. 6: Negro in the Gilded Age
- No. 7: The Negro Fights for the Four Freedoms
- No. 8: The Threshold of Equality

GUEST SPEAKERS

A visit to the classroom by an attorney, law student, or police officer is another way to teach legal subjects. These people have first-hand knowledge, and their experience can be used to dramatize the law in action. Arrangements for a visit by an attorney or law student can be made through a state bar association, a local bar association, the district attorney's office, or a nearby law school. A visit by a police officer can be arranged by contacting the police community relations officer, or the offices of police commissioner or chief of police.

Guest speakers during the 1972 project were invited most frequently to discuss the area of criminal due process. Local attorneys with experience in all aspects of criminal due process were invited, including members of the local district attorney's office, public defender's office, attorneys in criminal law practice, and a law professor who taught constitutional law and criminal due process. Police officers were also invited, and the tutors in the 1972 project reported that the high school students seemed to receive the police officers with more interest and enthusiasm than they did the attorney speakers. The tutors could not explain this, but it was suggested that perhaps the greater interest in the police was due to strong stereotyped opinions of police officers held by many students. Most of the students had probably never before had the opportunity to discuss such subjects as searches, arrests, police brutality, and police problems, from the officer's point of view, in the calm atmosphere of a classroom. The opportunity to meet a policeman as an individual and person was a unique experience for most students.

Guest speakers must be chosen carefully. Once selected, they must be briefed thoroughly about what they are expected to cover and how

they can best communicate with the particular class in question. Having an attorney visit the classroom may impress students, but it will do nothing to enhance their knowledge unless the attorney speaks their language.

The teachers and tutors in the 1972 project who employed guest speakers often attempted to relate the visit to some other class activity, such as a court tour or role playing activities. In one classroom two police officers agreed to play the roles of police officers in a stop and search skit.

FIELD TRIPS

Visits to the local police station or jailhouse, and patrol car rides with on-duty police officers, can be arranged for students with the cooperation of the local police department. Contact the police community relations officer or the offices of police commissioner or chief of police.

Ordinarily, no special arrangements need be made for a visit to a local courthouse. Courtrooms are generally open to the public, and usually the only limitation is seating space. Nevertheless, it is advisable to contact the court's jury commissioner or clerk to set a mutually convenient date for class visits. This also helps the teacher select a suitable trial to attend—one that will be interesting for the students and pertinent to their class studies. The teacher should also check with the clerk to determine if there are any regulations or restrictions regarding group visits.

Visits to both trial and appellate courts are interesting and valuable experiences for students. The 1972 project had a wide variety of local courts available for court tours. Not all areas will be so fortunate. Each teacher will have to determine the feasibility of visiting courts outside the immediate area of the school if none are available locally, but most schools should be within a short distance of some form of trial court.

Prior to a court tour, tutors in the 1972 project usually devoted one class period to an explanation of court systems, both state and federal. Courtroom procedures and manners were also discussed, and an attempt was made to inform the students about the particular trial or proceeding they were going to see.

Several tutors in the 1972 project contacted the judge, or the judge's clerk, in whose courtroom the class would be visiting, and asked the

judge to speak to the students briefly before the trial began. Such requests were usually met with cooperative, and often eager, responses. Some judges talked with students and answered questions in chambers after the courtroom sessions. Attorneys for the parties involved often talked to students before or after the proceedings.

The court tours were usually followed by a classroom question-and-discussion period regarding the experience. The law student-tutors usually found these post-tour discussions to be quite active, and they reported that many students seemed to approach the legal material with greater enthusiasm after the tour.

Certainly some courts will be more interesting to some students than to other students, and often a trial or other court proceeding may be boring to the students. But care in selecting the court to be visited, pre-tour orientation, and a conscious effort to relate the court tour to classroom studies and activities can make the tour educational as well as entertaining for the students.

ROLE PLAYING

During the 1972 project three basic types of role playing were used: mock trial, moot court and dramatic skits. The mock trial and moot court activities provided high school students with an opportunity to discover and experience how the American legal process operates, and at the same time learn substantive legal rights. Through active participation the students can gain insight into the law and the judicial process.

Directly involving as many students as possible in a role playing exercise is more important in some classes than in others. Indirect participants may become bored and not profit from the efforts of the active participants. This problem must be dealt with at the individual class level. During the 1972 project, teachers and tutors who perceived this to be a problem attempted to involve every student in the class in some role playing capacity, for example as jurors at a mock trial, or as courtroom clerks, reporters, or bailiffs.

The consensus of the teachers and tutors in the 1972 project who used the mock trial or moot court techniques was that the vast majority of classes responded enthusiastically to the change from passive education to active participation and role playing. Most students eagerly prepared for the events. In the opinion of most of the law student-tutors in the project, the majority of the students were able to relate mock trial and moot court hypothetical cases to the legal precedent cases assigned. The use of this technique was generally regarded as successful.

The mock trial and moot court activity often culminated the presentation of a topic. Dramatic skits were used during the presentation of a concept or in combination with a mock trial or a moot court. For example, a dramatic skit presenting a search and seizure situation was

followed by a mock trial of the person searched, to demonstrate the criminal due process rights of the 4th, 5th, and 6th Amendments. A protest demonstration might be followed by a moot court case on the 1st Amendment's "Freedom of Speech" safeguards.

The experience of the 1972 project indicates that role playing may not always be useful. It must be considered with reference to the particular class. One tutor working with a class comprised primarily of recent immigrants to the United States, many of whom had language problems, reported that his search and arrest role playing scene "died". The students could not build the characters they were to portray. Shyness, lack of general knowledge of the everyday workings of the law, and a multitude of related problems including language prevented success. Part of the problem could have been eliminated by better preparation. The students were asked to conduct themselves in their roles "as you think the person you are playing would act in real life" without insuring that the students had some understanding of how those persons did in fact conduct themselves in real life.

MOCK TRIAL

A mock trial is a simulated jury trial. Fact determination is stressed and the law as precedent takes a secondary position. The attorneys for each party attempt to convince the jury of the existence of certain facts by presenting witnesses and other forms of evidence. The jury considers questions of fact, such as, "Did Larry fire the gun at John?" The judge determines the applicable rules of law and gives them to the jury in the form of jury instructions. The judge instructs the jury to apply the instructions to the facts as the jury interprets them. As an example, the judge might say, "If you find that Larry fired the gun at John, then you, the jury, must find Larry guilty of assault with a deadly weapon." The outcome of the case is usually determined by the quality of evidence presented to the jury and the credibility of the witnesses.

Before the students participate in a mock trial they should receive background instruction about the structure and mechanics of the trial process. Students should have a fairly clear picture of the judicial and non-judicial processes that occur before a case comes to trial. For example, in a criminal case there should be instruction on search and seizure, arrest, post-arrest procedure, the preliminary hearing, and jury selection. In a civil trial, pleadings (complaint, answer, etc.) and pre-trial activities should be discussed. In either case, the trial itself remains basically the

same—the presentation of evidence and a fact determination that leads to a verdict.

A court tour is an excellent way to give students an idea of the way in which a trial is conducted and a feeling for the various roles played by the participants. It is also useful to base a mock trial on a case that happened, because that provides a ready-made fact situation and an appellate court discussion of at least some of the legal issues involved in the case.

The roles to be played in a mock trial and their functions are listed below:

Judge—keeps the trial moving in an orderly and dignified manner while making sure each side gets a fair opportunity to present its case.

Plaintiff's attorney (civil case) or prosecutor (criminal case)—presents the evidence, primarily through questioning the witnesses, and attempts to persuade the jury to bring in a verdict for the plaintiff or prosecution.

Defendant's attorney—shows that the evidence is not sufficient to justify a verdict against the defendant by persuading the jury that the evidence as presented is untrustworthy, inconsistent, or unreasonable.

Witnesses (this includes the plaintiff, or victim in a criminal case, the defendant, the plaintiff's witnesses, and the defendant's witnesses)—their job is to state the facts in response to attorneys' questions.

Jury—the jurors decide the case. Their job is to listen to the witnesses and, individually determine whether or not the testimony makes sense. They must be aware of inconsistencies and mistakes, and, after all the evidence is in, they decide as a group, through deliberation, which party has the better case in a civil suit or if the prosecution has proved the defendant's guilt beyond a reasonable doubt in a criminal case.

Court clerk—helps prepare the script of the trial and helps instruct the participants. On the day of the trial the clerk prepares the courtroom and, during the trial, administers the oath to each witness.

Court reporter—takes notes on the highlights of the trial and on the performances of the participants. These notes can be used in post-trial discussions.

Bailiff—maintains order when requested to do so by the judge. The bailiff also protects the jury from any interference during their deliberation, and carries any written messages from the jury to the judge.

While there are many roles to be played, some can be eliminated if necessary to accommodate a small class. If the class is large the number of participants per role may be increased. For example, instead of a single

attorney for each side, a few students may be assigned to act as team co-counsel for the client, or the remaining class as a whole may serve as the jury after the other roles have been assigned, or students can act as members of the press and prepare news reports of the proceedings.

To prepare the students, the prosecution or plaintiff and defense teams should be given background material in the form of a written statement of the facts and a list of the general issues involved in the case. The students should already be familiar with the legal concepts involved in the case from previous presentation of the material. The teacher or a strong member of the class should be selected as judge so that order and discipline are maintained. Sufficient time should be set aside for the attorneys to prepare their cases for trial. This preparation should be done through consultation with the clients being represented, for example the defense attorneys with the defendant, and the prosecution attorneys with the victim.

The actual trial procedure is as follows:

Plaintiff's opening statement—this brief statement to the jury introduces the case. The plaintiff's attorney summarizes the facts and states what he or she intends to prove. At this point, no discussion of law is permitted, nor is any reference to the opponent's case allowed. In a criminal case, this statement is made by the prosecution.

Defendant's opening statement—this statement summarizes the facts from the defendant's point of view and states the general theory of the defendant's case. In a criminal trial, this statement is made by the accused's attorney.

Examination of witnesses—this portion of the trial has two aspects: direct examination and cross-examination. The plaintiff's witnesses are examined first, followed by the witnesses for the defense. Each witness is sworn in and then questioned, first by the attorney representing the party for whom that witness was called, and then cross-examined by the opposing attorney. Cross-examination is optional and an attorney can decline. The purpose of cross-examination is to explain and clarify testimony given by the witness which may be misleading, or to expose any inconsistencies or weaknesses in that testimony. The attorney should attempt to present a witness in the most favorable light to convince the jury of the soundness of the client's case. The attorneys should also avoid "leading questions" that suggest the desired answers. In preparing for cross-examination, the attorneys should listen carefully and take notes on the testimony given. If the testimony is incomplete, the cross-examiner should get the witness to tell the rest. If the testimony does not make sense, the attorney should

seek to clarify it. If the testimony is harmful to the client, the attorney should try to “discredit the witness” in some way. In order to do this, the attorney needs a thorough understanding of the facts of the case.

Plaintiff’s closing argument (civil), prosecution’s closing argument (criminal)—in this short statement to the jury, the plaintiff’s attorney summarizes the favorable evidence and attempts to show how it leads to a verdict for the client. Here, the lawyer puts the puzzle together and tries to persuade the jury to accept his or her interpretation of the facts and the law. In a criminal trial, this initial closing argument is made by the prosecution.

Defendant’s closing argument (civil), defense counsel’s closing argument (criminal)—in this statement, the defendant’s attorney sums up the case in a similar manner to that of the plaintiff’s attorney. In a criminal trial, the defense counsel’s closing argument follows the prosecution’s closing argument.

Plaintiff’s rebuttal argument (civil)—this is an optional statement made by the plaintiff’s attorney if he or she wishes to reply to the defendant’s closing argument. In a criminal trial, there is no rebuttal.

Jury deliberation and verdict—in an actual trial, the jury deliberates in secret, but in a mock trial, the jury could reach its verdict in the presence of the entire class. The verdict in a criminal trial must be unanimous, but in a civil trial, a three-fourths majority is sufficient when unanimity is impossible. If the jury cannot reach a verdict, a mistrial is declared. Finally, if an actual case has been used as a model for the mock trial, the decision of the case should be read and compared. An alternative to the jury deliberation and verdict is to poll the class as to who should win and why. The decision of the actual case can be distributed and compared with the class’ results.

The amount of time necessary to present a mock trial will vary according to the number of facts that must be introduced into evidence and the speed with which the student-attorneys examine the witnesses.

MOOT COURT

The moot court is a simulation of an appellate court proceeding. After the verdict is rendered by the trial court, the losing party may feel the verdict is unjust and appeal the decision to a higher court for review. There are no juries at the appellate level. The appellate court may not review questions of fact that have been decided by the trial court jury, but must restrict its review to questions of law. The appellate court must

only consider the losing party's attorney's arguments that the trial court erred in interpreting the law as applied to the facts of that particular case, or that the law as applied is unconstitutional. For example, the attorney might say, "Although my client's speech in the park did violate the local ordinance, that ordinance violates his right to free speech under the 1st Amendment and, therefore, is unconstitutional". The attorneys argue why the original decision should be upheld (allowed to stand) or reversed. The judges then arrive at their decision. They can uphold the original verdict, reverse it and remand it to the lower court for retrial, or order a verdict for the losing side. The judges normally accompany their decisions with written opinions that give reasons for their decisions.

A moot court requires students to study precedent cases and to apply the legal rules found in those cases to the facts of the problem case. A moot court provides the students with an introduction into legal reasoning and research, as well as oral argument. By conducting a moot court, it is possible for the class to study legal concepts in depth.

A moot court takes less time to set up, and is usually easier to conduct than a mock trial. The court is made up of at least three judges, but there can be as many as desired. Before the actual procedure begins the judges read the written arguments presented to them by the attorneys. Next, class periods are devoted to oral argument, during which the judges will often interrupt to ask questions of the attorneys. Finally, the judges deliberate and reach a decision, usually handing it down in the form of a written opinion.

The first thing for the teacher to do in order to have a moot court is to select a legal concept to be explored. After the concept has been selected, a visit to a law library is necessary to find a fact situation on which to base the case. Perhaps the simplest way to do this is to take a fact situation from a United States Supreme Court case. An actual Supreme Court case will provide a concise factual statement for presentation to the class. It will also provide a thorough discussion of the legal issues involved in the case. This enables the teacher to guide the student-attorneys in preparing their appellate arguments. Also the Supreme Court decision can be compared to the decision reached by the class. After locating a case for the fact situation, select a few other cases that can serve as precedents upon which the students can base their arguments. Finding the cases for a moot court will not be as difficult as it sounds. Most of the individuals who staff a law library are very cooperative. With their help and a rudimentary knowledge of legal research, a teacher will be able to find the cases desired in a short time. Edited cases

for a moot court on either the 1st Amendment, or the criminal due process rights of the 5th and 6th Amendments, can be found in the Appendices of Volume 2, Number 1 of the 1972 Golden Gate Law Review, beginning at page 331.

After the fact situation and appropriate precedent cases have been selected, conduct a general classroom discussion of the legal concepts to be dealt with in the moot court. This discussion should be followed by a discussion of the precedent cases and the rules that emerge from them. From these discussions, the general rules and concepts involved should become clear to the class so that students can prepare written and oral arguments, applying the precedent cases to the moot court fact situation. The ideal way to present the precedent cases is to give each student an edited copy of each court decision. If this is not possible, short typed summaries are adequate.

During the 1972 project, a few of the high school students and teachers criticized some of the cases assigned as being too long and tedious. Some edited versions of very long cases were criticized as too over-simplified to be of much value. The selection of cases and editing of them for use in the class should be done with these two observations in mind.

Once the legal concepts have been discussed, students should be assigned to the various roles. These include:

Attorney(s) for the "petitioner", in some courts called the "appellant" (the party appealing the lower court's decision).

Attorney(s) for the "respondent", in some courts called the "appellee" (the party contesting the petitioner's appeal).

Judges (at least three, but an odd number should be chosen).

The selection of the judges is a crucial part of the moot court proceeding because they are responsible not only for questioning the attorney's arguments, but also for rendering a written opinion at the conclusion of the case. One method of selection that has proven effective is nomination of the judges by the class. After nomination, each candidate should be questioned about his qualifications, and the requisite number of judges should be elected. An alternate method is to have a smaller number of student-attorneys with the rest of the class functioning as judges and writing opinions on the case.

The judges have three duties:

They must familiarize themselves with the facts of the court case so that they can question attorneys during the oral arguments.

They must prepare a written opinion based on the precedent cases and the oral and written arguments of the attorneys.

They must announce their decision to the class.

Appellate courts sometimes overrule precedents if the rule of the precedent case is not clear or if the judges feel that the decision is wrong, unjust, or that the prior decision did not consider all the relevant facts involved in the precedent case.

Before the oral arguments are presented, the student-attorneys should prepare a written brief setting forth their arguments. The judges should have an opportunity to read the briefs before presentation of the oral arguments. Other members of the class should receive copies of the briefs so that they can become familiar with the legal issues. A brief should contain (1) a statement of the main facts in the case and (2) written arguments applying the law from precedent cases to the facts of the moot court case.

The attorneys for the petitioner (the person appealing the lower court's decision) present their oral argument first. Each side should be given a specific amount of time in which to present its case. It is suggested that each member of the attorney team present one facet of the team's argument. During the oral arguments, the judges may interrupt at any time to ask questions or to direct the attorneys to specific issues the judge would like to hear discussed. It will probably be impossible to hear both sides in one class period.

In their opinions, the judges should: (1) state the important facts of the case; (2) discuss fully the legal concepts that apply to the case; and (3) state the court's decision. The decision reached by the majority of judges is called a "majority decision" and becomes the law. Those judges who have decided the case differently should submit a "minority opinion" stating the reasons for their disagreement with the majority. Each student-judge should write a separate opinion. Finally, the actual court opinion upon which the exercise is based should be distributed to the class together with the opinions from the moot court judges. The two opinions should be compared.

DRAMATIC SKITS

Dramatic skits used in the project were often used in conjunction with a mock trial or moot court. A situation would be acted out and would become the fact situation for the later court proceeding. Skits were also used to illustrate a single legal concept or rule of law, for example, the difference between assault and battery in tort law.

One class staged a speech and protest drama based on the facts of an actual Supreme Court case. Five white students were assigned roles as black demonstrators parading on a courthouse lawn in South Carolina. Each made a sign protesting school segregation. A black girl was assigned the role of a white southern mayor, and a Latino student assumed the role of the chief of the police. The students were not told how to play their roles. The remainder of the class acted as white hecklers and troublemakers. The "black" demonstrators marched around the classroom carrying their signs and singing "We Shall Overcome." The police chief reported the demonstration to the mayor who responded with an order for the demonstrators to disperse within fifteen minutes. They refused and were arrested. The drama provoked animated student discussion of free speech and assembly issues under the 1st Amendment.