

Mock Trial Preparation

Time

2 class periods (block scheduling, 90 minutes per period) or 4 class periods (45 minutes per period)

Overview

The remaining students will receive their briefings and instructions at the beginning of this lesson. Students must use the allotted time wisely to prepare for the trial. The teacher should be available to answer any questions and provide guidance as needed.

Essential Question

- In time of war, how should the government balance national security and individual liberties?

Objectives

- Students will familiarize themselves with their assigned roles and prepare for the mock trial.
- Students will hone their listening and observation skills.

Guiding Question(s)

- How do the participants in a trial work together to ensure that a case is fairly presented and decided upon?

Materials

- Computer lab or library, if possible, for students to conduct research in preparation for the trial
- *Handout 3-1: A More Perfect Union (optional)*, if Internet access is available
- Preprepared packets of information prepared for the witnesses and defendant. It is helpful to color-code these packets (e.g., yellow folders indicate prosecution-related roles) in order to keep students on track over the next few days.
 - *Packet 3-1: Judge*
 - *Packet 3-2: Bailiff*
 - *Packet 3-3: Attorneys* (one copy for each prosecuting attorney and each defense attorney)
- *Packet 3-4: Court Recorder, Court Artist, Camera/Video Person(s)*
- *Packet 3-5: Members of the Jury*
- Copies of transcribed primary source documents (from Lesson 2) for the judge and each of the attorneys
 - *Primary Source Document #1: Transcript of Executive Order 9066*
 - *Primary Source Document #2: Transcript of Civilian Exclusion Order No. 34*
- Legal pad and highlighter for each attorney
- Blank paper for the court artist
- Audio- and video-recording devices for the court recorder and camera/video person(s)
- Copies of crime puzzles for each member of the jury, court recorder, court artists, and camera/video person(s). The solutions to the puzzles should also be copied and given to the jury foreperson. The puzzles can either be copied from the book *Crime and Puzzlement: 24 Solve-Them-Yourself Picture Mysteries* or downloaded and printed from two Web sites: Youthwork Practice at <http://www.youthwork-practice.com/guessing-game-quizzes/crime-puzzles.html> (accessed September 3, 2009) and Squidoo at <http://www.squidoo.com/minutemysteries#module2936045> (accessed September 3, 2009). Additional bibliographic information is found in the References section at the end of this lesson.
- Copy of the movie *Twelve Angry Men* (either the 1957 or the 1997 version) for members of the jury, court recorder, court artists, and camera/video person(s) to watch
- Courtroom materials (robe, gavel, digital camera, video camera, tape-recording device, courtroom signs for participants, podium or large table for judge to sit behind, small microphone for witness to use if possible, easel with pad for use during trial, California flag (or drawing of one), American flag, etc.)
- Large multipurpose room or stage for trial (otherwise just use classroom and arrange desks appropriately)



Background

Before beginning this lesson, the teacher must prepare for the mock trial:

- Prepare the packets of information for the witnesses (prosecution and defense) and the defendant.
- Continue gathering courtroom materials needed for the mock trial (judge's robe, gavel, video equipment, etc.).

Activities

- Have students work on a short independent assignment that lasts about 15 minutes. If there is access to the computer lab, assign them *Handout 3-1: A More Perfect Union (optional)*.
- If possible, reserve a large space such as the computer lab, library, or multipurpose room so that the groups can conduct research and work independently of each other for two class periods (block scheduling, 90 minutes per period) or four class periods (45 minutes per period).
- While students are working on the initial assignment, call the remaining groups into the hallway. Hand them their packets of information (prepared by the teacher prior to class) and explain what they must do to prepare for the trial. The groups should be called in the following order and given their respective packets.
 - Judge and Bailiff: Give them *Packet 3-1: Judge* and *Packet 3-2: Bailiff* and review the information, highlighting some of the things they will be doing during the prep time.
 - Attorneys for the Prosecution: Hand each lawyer a legal pad, highlighter, and *Packet 3-3: Attorneys*. Explain their roles and tell them to read over every piece of paper in the folder, as the information will help them a great deal.
 - Attorneys for the Defense: Hand each lawyer a legal pad, highlighter, and *Packet 3-3: Attorneys*. (This is the same packet that the Attorneys for the Prosecution just received.) Explain their roles and tell them to read over every piece of paper in the folder, as the information will help them a great deal.
- Court Recorder, Court Artist, Camera/Video Person: Give each person in the group *Packet 3-4: Court Recorder, Court Artist, Camera/Video Person(s)*. After reviewing the instructions, give the court artist blank paper to draw on and explain to the court recorder and camera/video person(s) how to run the equipment.
- Members of the Jury: Distribute to each person in this group *Packet 3-5: Members of the Jury*. Explain to them the job of a jury and that they will be determining not only the guilt or innocence of Mr. Korematsu in defying Civilian Exclusion Order No. 34, but also the constitutionality of the President's Executive Order. They should take good notes during the trial so they can refer to them in their deliberations. Give the jury foreperson the downloaded crime puzzles to distribute. Also give the foreperson the answers to the crime puzzles to share with the group as they work together on solving them.
- Each group will have different items to work on these two days so they are all busy. The teacher should float around to each group to make sure that they are on task and to encourage/help them if they are lost. Instructions for the prep days are included in each of the packets, but please especially note that attorneys are not allowed to speak to opposing witnesses until they are being cross-examined on the stand during the trial.
- With about 10 to 15 minutes remaining in the final preparation period, it is helpful to do a walkthrough of the trial. This cuts down on wasted time on the first day of the trial. Start with the judge in the hall and have the bailiff say, "Please rise" and run through the procedure outlined in the Mini-Mock Trial Manual downloaded from the Minnesota Center for Community Legal Education. Everyone should be respond to the judge with "Your Honor." The teams should be careful not to reveal any of their strategy during this rehearsal.



References

- “5 Short Crime Puzzles and MiniCrime Stories.” Youthwork Practice <http://www.youthwork-practice.com/guessing-game-quizzes/crime-puzzles.html> (accessed September 3, 2009).
- “Classifying Arguments for Each Side: *Korematsu v. United States*.” Landmark Supreme Court Cases <http://www.landmarkcases.org/korematsu/arguments.html> (accessed September 3, 2009).
- Constitutional Rights Foundation. “Wartime and the Bill of Rights: The *Korematsu* Case.” <http://www.crf-usa.org/america-responds-to-terrorism/wartime-and-the-bill-of-rights.html> (accessed September 3, 2009).
- Minnesota Center for Community Legal Education. “Mini-Mock Trial Manual.” <http://www.civicallyspeaking.org/mock3.pdf> (accessed September 3, 2009).
- National Archives and Records Administration. “Teaching With Documents: Documents and Photographs Related to Japanese Relocation During World War II.” <http://www.archives.gov/education/lessons/japanese-relocation/#documents> (accessed September 3, 2009).
- Smithsonian National Museum of American History. “A More Perfect Union: Japanese Americans and the Constitution.” <http://americanhistory.si.edu/perfectunion/experience> (accessed September 3, 2009).
- Schoales, Gary Parker. *Justice and Dissent: Ready-to-Use Materials for Re-creating Great Trials in American History*. Upper Saddle River, N.J.: Center for Applied Research in Education, 1994.
- Treat, Lawrence. *Crime and Puzzlement: 24 Solve-Them-Yourself Picture Mysteries*. Cambridge, Mass.: David R. Godine, 1981.
- “Two Minute Mysteries.” Squidoo <http://www.squidoo.com/minutemysteries#module2936045> (accessed September 3, 2009).

A More Perfect Union

Handout 3-1 (optional)

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Name _____

Date _____ Period _____

1. Open up Internet Explorer.
2. Go to the Smithsonian's National Museum of American History Web online exhibition, "A More Perfect Union: Japanese Americans and the U.S. Constitution," at <http://americanhistory.si.edu/perfectunion/experience/index.html> (accessed September 3, 2009).

View the pictures on the left and then read the intro on the right of the screen that starts with "This site explores . . ."

3. When you are finished reading that, click on the "Rich Media Version" link underneath where it says, "Begin the Story Experience."

Read the paragraph at the bottom. Answer these questions.

A. How many Japanese Americans were removed from their homes? _____

B. How many Japanese Americans were citizens? _____

C. What delicate balance was upset during this period? _____

4. Now put the cursor on the second photograph from the left and click on the "Removal" Section of the story.

What document, signed by President Roosevelt, ordered the removal of "any and all persons" from designated areas? _____

What was the reasoning given? _____

5. Click on the first photograph on the top left, the bombing of Pearl Harbor, entitled "Crisis: Pearl Harbor."

Go through those images by using the mouse to click and drag to view the quotes and photographs to get an idea of how some Americans on the West Coast reacted to Japanese Americans after Pearl Harbor. Jot down three things that you notice as a particular theme as you look through this piece of the story. They could be quotes or descriptions of images.

- A. _____
- B. _____
- C. _____

Who were some groups considered to be spies? _____

6. Click on “Next Section” entitled “Constitution and Executive Order.”

Use the mouse to click and drag to view the text and images. What two amendments were mentioned here?

- A. _____
- B. _____

Are there any more amendments in the Bill of Rights that could be added? _____

Click on the photograph of the girls pledging allegiance to the flag. What is the original caption for that picture? _____

What is striking to you as you look at that picture and the date of the picture? _____

7. Click on “Next Section” entitled “Process.” Click and drag and look at the photographs and text.

Who issued the exclusion orders for the West Coast? _____

What does he think of Japanese Americans? _____

Once the Japanese Americans, aka “Evacuees,” learned they were leaving, what could they bring with them? _____

8. Click on “Next Section” entitled “Moving Out.” Click and drag and look at the pictures and quotes.

Look at the photographs of the people getting on the buses. Click on them to make them larger. What do you notice they have in common? _____

What one thing stands out to you? _____

What is the estimated property loss for the forced evacuation? _____

9. After you have seen all of the images, click on “Next Section” entitled “Assembly Centers.”
10. Click on “Next Section” entitled “Internment.”
11. Click on and go through the first three photographs at the top, “Permanent Camps,” “Conditions,” and “Home = Barracks.” Write down five things you learned from these three sections.

A. _____

B. _____

C. _____

D. _____

E. _____

Bonus: What was the slogan of the 442nd Regimental Combat Team? _____

Judge

Packet 3-1

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Name _____

Date _____ Period _____

Instructions and Information for the Judge

Judges spend many years practicing law before they preside over a trial, but by following these practical tips and by doing adequate research and preparation before the trial begins, you can be an effective judge!

Important Note on this Mock Trial

This mock trial is unconventional and fictional. It has been set up to be an impossible combination of a criminal case and a civil case. The jury will reach a verdict regarding the violation of the exclusion order (criminal) and the judge will help them reach a verdict/ruling on the issue of whether the Executive Order by the President is unconstitutional or not (civil).

Research and Preparation Related to the Trial Procedure

1. Review the “Mini-Mock Trial Manual” compiled by the Minnesota Center for Community Legal Education, available at <http://www.civicallyspeaking.org/mock3.pdf> (accessed September 3, 2009). Pages 5 through 7 are especially helpful because they outline the trial procedure. Page 11 contains specific instructions for judges that must be read and followed. (Note that in this mock trial, the jury selection process has been eliminated and the jurors have been predetermined.)
2. Determine how many witnesses and defendants there are and calculate a general time limit for opening and closing statements, jury deliberation, reading instructions to jury, direct questioning of witnesses, cross-examination questions, and then rebuttal questions. Remember, there are only about 180 minutes for the trial. Work with the bailiff to keep track of time.
3. Learn the different grounds for objections and be ready to rule on them:
 - *Leading*: Leading questions are only permitted during cross-examination, not during direct examination. An example of a leading question would be: “Mr. Hayes, isn’t it true that you were once convicted of a crime?”
 - *Opinions and conclusions*: Witnesses must stick to the facts and should not share their opinions or conclusions.
 - *Immaterial and irrelevant*: Witnesses can only provide information relevant to the case.
 - *Speculation*: Witnesses cannot predict the future and must rely on the facts.
 - *Hearsay*: Witnesses cannot draw on conversations outside of the courtroom. An example of hearsay might begin with the phrase, “I was told . . .”
4. Work with the bailiff to sketch out how the courtroom should be set up. Explain the set up to the Court Recorder, Court Artist, and Camera/Video Person(s).
5. Think about and write out the instructions that you will provide to the jury before they deliberate to decide whether the defendant is guilty or not guilty. Be sure to include the following information:
 - The importance of being fair.
 - Their choices for what the verdicts may be and the fact that it has to be a unanimous decision.
 - They need to think about the constitutional issues in the trial.
 - Finally, present them with a question about obeying the oath they took and have them answer in the affirmative if they understand the instructions.



Research and Preparation Related to the Korematsu Case

1. Do research on the case and the law, specifically paying attention to the following:
 - a. Fifth and Fourteenth Amendments of the U.S. Constitution
 - b. Executive Order 9066 and Civilian Exclusion Order No. 34
2. Here are some links specific to the Japanese American experience and Fred Korematsu's trial which might also be helpful:

“Classifying Arguments for Each Side: *Korematsu v. United States*.” Landmark Supreme Court Cases <http://www.landmarkcases.org/korematsu/arguments.html> (accessed September 3, 2009).

Constitutional Rights Foundation. “Wartime and the Bill of Rights: The Korematsu Case.” <http://www.crf-usa.org/america-responds-to-terrorism/wartime-and-the-bill-of-rights.html> (accessed September 3, 2009).

National Archives and Records Administration. “Teaching With Documents: Documents and Photographs Related to Japanese Relocation During World War II.” <http://www.archives.gov/education/lessons/japanese-relocation/#documents> (accessed September 3, 2009).

General Tips for Being an Effective Judge

1. If you want to clarify something with the attorneys, call a one-minute recess and have them come to the bench to talk to you and straighten things out, or you can call a recess to confer with the teacher.
2. Try to watch a television show such as *Law and Order* to get a sense of how courtroom flow, objections, and questions go in a trial.
3. Keep the trial moving. You're in charge!
4. If you need help or have any questions, ask the teacher.
5. Good luck and have a good time with this!

Bailiff

Packet 3-2

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Name _____

Date _____ Period _____

Instructions and Information for the Bailiff

The bailiff is the courtroom law officer who works closely with the judge, keeps order in the court, and helps the trial run smoothly. By following these practical tips and by doing adequate research and preparation before the trial begins, you can be an effective bailiff!

Research and Preparation Related to the Trial Procedure

1. Review the “Mini-Mock Trial Manual” compiled by the Minnesota Center for Community Legal Education, available at <http://www.civicallyspeaking.org/mock3.pdf> (accessed September 3, 2009). Pages 5 through 7 are especially helpful because they outline the trial procedure and the role of the bailiff.
2. Gather all necessary materials for swearing in the witnesses. Memorize what you will say to administer the oath.
3. Check with the judge to determine approximately how many minutes each portion of the trial will take. Find a stopwatch to help the judge keep track of the time limits.
4. Also check with the judge about how he or she wants the courtroom to be set up. Share this layout with the teacher to ensure that the room setup will work.
5. Refer to the room setup and make official signs for desks showing where everyone will sit. Write the appropriate names and roles on these signs. Type these signs up in a big font, if possible.
6. Talk to the attorneys to find out the witnesses’ names and who is playing them ahead of time so that you are prepared to call them when they are requested by the attorneys.
7. Work with the judge on anything else he/she needs.

General Tips for Being an Effective Bailiff

1. Escort the defendant into and out of the courtroom.
2. Be sure that the courtroom is quiet and orderly and remove any person who causes a disturbance.
3. You are responsible—and this is important—for making sure that everyone is seated and ready to go within 2 to 3 minutes after the bell rings so the trial can get started immediately. The teacher is not getting the courtroom ready for trial—the bailiff is!
4. Try to watch a television show such as *Law and Order* to get a sense of how courtroom flow, objections, and questions go in a trial.
5. If you need help or have any questions, ask the teacher.
6. Good luck and have a good time with this!



Attorneys

Packet 3-3

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Name _____

Date _____ Period _____

Instructions and Information for the Attorneys

By following these practical tips and by doing adequate research and preparation before the trial begins, you will be part of an effective attorney team!

Important Note on this Mock Trial

This mock trial is unconventional and fictional. It has been set up to be an impossible combination of a criminal case and a civil case. The jury will reach a verdict regarding the violation of the exclusion order (criminal) and the judge will help them reach a verdict/ruling on the issue of whether the Executive Order by the President is unconstitutional or not (civil).

Research and Preparation Related to the Korematsu Case

1. Read everything in this packet.
2. Do research on the case and the law, specifically paying attention to the following:
 - Fifth and Fourteenth Amendments of the U.S. Constitution
 - Executive Order 9066 and the Civilian Exclusion Order No. 34
3. Here are some links specific to additional information about the Japanese American experience and Fred Korematsu's trial that might be helpful:

“Classifying Arguments for Each Side: *Korematsu v. United States*.” Landmark Supreme Court Cases <http://www.landmarkcases.org/korematsu/arguments.html> (accessed September 3, 2009).

Constitutional Rights Foundation. “Wartime and the Bill of Rights: The Korematsu Case.” <http://www.crf-usa.org/america-responds-to-terrorism/wartime-and-the-bill-of-rights.html> (accessed September 3, 2009).

National Archives and Records Administration. “Teaching With Documents: Documents and Photographs Related to Japanese Relocation During World War II.” <http://www.archives.gov/education/lessons/japanese-relocation/#documents> (accessed September 3, 2009).

4. After conducting your research, decide what theme and motive your team will focus on to prove Fred Korematsu's guilt/innocence in regards to violating Civilian Exclusion Order No. 34, as well as your case on proving/disproving the constitutionality of Executive Order 9066. It is very important that your team of attorneys present a consistent case to the jury. Determine the questions to be used in the direct examination and cross-examination.
5. As a team, decide which team member(s) will give the opening and closing statement and which team member(s) will conduct the direct examination of which witnesses. It is also possible to question all witnesses together, like a tag team.
6. Once the team receives witness testimonies, analyze them, begin formulating questions, and determine the order

in which you will call your witnesses to the stand. Start with your witness's testimony and then move to trying to anticipate loopholes in that testimony that the opposing attorneys might ask about. (Attorneys are only allowed to talk to their own witnesses prior to the trial; you may not talk to the opposing witnesses before the trial.)

7. After you have done your research and analyzed the testimony, rehearse with your witnesses both the direct examination (which will be conducted by your team) and the cross-examination (conducted by the opposing attorneys). While rehearsing, be sure that the witnesses' responses will be believable to the jury. Both the witnesses and the attorneys should have their testimonies and questions memorized on the day of the trial, so the more you can practice, the better.

Research and Preparation Related to the Trial Procedure

1. Review the "Mini-Mock Trial Manual" compiled by the Minnesota Center for Community Legal Education, available at <http://www.civicallyspeaking.org/mock3.pdf> (accessed September 3, 2009). Pages 5 through 7 are especially helpful because they outline the trial procedure.
2. Learn the different grounds for objections and be ready to use them appropriately:
 - *Leading*: Leading questions are only permitted during cross-examination, not during direct examination. An example of a leading question would be: "Mr. Hayes, isn't it true that you were once convicted of a crime?"
 - *Opinions and conclusions*: Witnesses must stick to the facts and should not share their opinions or conclusions.
 - *Immaterial and irrelevant*: Witnesses can only provide information relevant to the case.
 - *Speculation*: Witnesses cannot predict the future and must rely on the facts.
 - *Hearsay*: Witnesses cannot draw on conversations outside of the courtroom. An example of hearsay might begin with the phrase, "I was told . . ."
3. During questioning, remember that the jury does not have the witnesses' testimonies in front of them and is unfamiliar with what they have to say. Therefore, you have to walk your witness step-by-step through his or her testimony so that the jury understands the whole picture.

Opening and Closing Statements

1. These statements are the most important part of the trial, so the team member(s) selected to give them should begin drafting these statements early; this allows the rest of the team a chance to read and critique them.
2. Opening and closing statements should have the following characteristics:
 - Clearly and simply state the basic facts of the case.
 - Avoid personal opinion statements such as "I believe . . ."
 - Refer to the individuals on your side of the case by their names; refer to the individuals on the opposing side by their roles, such as "the defendant" or the "the prosecution witness."
 - In the opening statement, do not give away the entire case. End the opening statement by telling the jury that the facts that they will hear during the trial will support the case and that you are hoping for a favorable verdict.
 - In the closing statement, refresh the jury's memory about important facts or testimonies but do not introduce any new arguments.
3. The team member(s) giving the opening and closing statements should practice in front of a mirror at home, hopefully memorizing their text to appear as knowledgeable, competent, and persuasive as possible.



Direct Examination

1. The purpose of the direct examination is to ask clear and simple questions that allow the witnesses to tell the complete story. Your team can win the trial on the strength of the direct examination.
2. Practice your questions and refer only briefly to notes.
3. Assume that the jury knows nothing about the case, the witnesses, or the defendant. It is your job to clearly build a case for them.
4. The jury tends to remember what is said first and last. Therefore, work with your team to think about any possible weaknesses in your case and present them somewhere in the middle of the direct examination. It is usually most effective to be forthright about any weaknesses in order to preempt the opposing side from bringing them up. Also, it is recommended that your team schedules the strongest witnesses to be the first and last to take the stand.
5. If your witnesses get nervous and forget to mention important details, it is your job to ask questions that will draw out those details. If a witness says something unexpected and harmful to the case, remain calm and go to another question to try to refocus the jury's attention.
6. Advise your witnesses to listen carefully to the opposing attorney during the cross-examination and only answer the question that is asked. Witnesses should never volunteer information under cross-examination.

Cross-Examination

1. The purpose of the cross-examination is to try to get the person on the stand to agree with the facts that support your case and discredit the opposing side's argument.
2. Focus your questioning on just the main points that support your case. Questions that require yes/no answers allow you to remain more in control of the situation. For example, during the cross-examination, you can state a fact and have a witness agree or disagree with it. During the cross-examination, you are allowed to ask leading questions. (You are not permitted to ask leading questions during direct examination.)
3. During the cross-examination, listen very closely to the answers that are being given.
4. Never argue with a witness—it is improper and does not make a good impression on the jury.
5. If you get an unexpected answer, remain calm and continue as if nothing has happened. If the witness keeps responding to your questions with "I don't know," don't worry because they are probably making a bad impression on the jury.
6. Prior to the mock trial, you are not allowed to discuss the case with witnesses from the opposing side and can only question them during the trial.

General Tips for Being an Effective Attorney

1. Remember that all of the attorneys are part of a team, are equals, and make decisions by consensus. Work together as a team and help each other if somebody gets stuck.
2. Show respect for the judge, jury, and witnesses at all times. This is not a fight—it is a debate.
3. During the mock trial, speak clearly and loudly so that the judge and jury can hear you. Practice in front of a mirror.
4. Walk around when questioning the witnesses because the jury may stop listening if you stand in one place for too long.
5. Do not constantly object to everything, just what is most important.



6. If something unexpected happens, remain calm and continue on.
7. The jury is often impressed if you seem to have memorized the details of the case.
8. Be creative and have fun. Do demonstrations and show pictures and/or photographs to make a strong case for your side. Use the easel to put these things on display so that the jury can see them.
9. Try to watch a television show such as *Law and Order* to get a sense of how courtroom flow, objections, and questions go in a trial.
10. On the day of the trial, your team might come to school dressed a little bit nicer than usual in order to impress the jury.
11. If you need help or have any questions, ask the teacher.
12. Good luck and have a good time with this!

Court Recorder, Court Artist, Camera/Video Person(s)

Packet 3-4

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Name _____

Date _____ Period _____

Research and Preparation Related to the Trial Procedure

1. During prep days, the court recorder, court artist, and camera/video person(s) will draw a large American flag and a large California flag to put up on the wall for the courtroom.
2. Locate and test the recording devices that you will be using during the trial.
3. Check with the judge about how the courtroom will be set up.
4. Meet with members of the jury to work together as a group to solve crime mystery puzzles. These puzzles will sharpen your powers of observation in preparation for the mock trial.
5. Watch the movie *Twelve Angry Men* (either the 1957 or the 1997 version). This movie has some similarities to the current case. Listen intently to the conversation. Answer these questions as the movie progresses:
 - Pick a juror in the movie. Describe the opinion that he initially formed about the case and why. Is this a proper way for a juror to form an opinion?
 - Did the one dissenting juror believe that the defendant was guilty, did he think the man was innocent, or did he concern himself with these thoughts at all?
 - Do you think that the dissenting juror planned to try to convince the others of his opinion all along? What were his methods of persuasion?
 - Do you think that the jurors thought that the boy had killed his father? Should they have voted to convict if they held that belief?
 - How would you have voted in this case? Why?

General Tips for Being an Effective Court Recorder, Court Artist, and Camera/Video Person

1. Pay attention and listen carefully to what is happening during the trial.
2. Try to watch a television show such as *Law and Order* to get a sense of how courtroom flow, objections, and questions go in a trial.
3. If you need help or have any questions, ask the teacher.
4. Good luck and have a good time with this!

Members of the Jury

Packet 3-5

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Name _____

Date _____ Period _____

Important Note on this Mock Trial

This mock trial is unconventional and fictional. It has been set up to be an impossible combination of a criminal case and a civil case. The jury will reach a verdict regarding the violation of the exclusion order (criminal), and the judge will help them reach a verdict/ruling on the issue of whether the Executive Order by the President is unconstitutional or not (civil).

Research and Preparation Related to the Trial Procedure

1. The jury foreperson has been given some crime puzzles. Meet with the court recorder, court artist, and camera/video person(s) to work together as a group to solve crime mystery puzzles. Only the foreman will have the answers. These puzzles will sharpen your powers of observation in preparation for the mock trial.
2. Watch the movie *Twelve Angry Men* (either the 1957 or the 1997 version). This movie has some similarities to the current case. Listen intently to the conversation. Answer these questions as the movie progresses:
 - Pick a juror in the movie. Describe the opinion that he initially formed about the case and why. Is this a proper way for a juror to form an opinion?
 - Did the one dissenting juror believe that the defendant was guilty, did he think the man was innocent, or did he concern himself with these thoughts at all?
 - Do you think that the dissenting juror planned to try to convince the others of his opinion all along? What were his methods of persuasion?
 - Do you think that the jurors thought that the boy had killed his father? Should they have voted to convict if they held that belief?
 - How would you have voted in this case? Why?

General Tips for Being an Effective Member of the Jury

1. In this mock trial, the job of a jury is to use the facts to objectively determine not only the guilt or innocence of Mr. Korematsu in regards to violating Civilian Exclusion Order No. 34, but also the constitutionality of the President's Executive Order. (In reality, the jury would not rule on the constitutionality of the executive order.)
2. You are not expected to know anything about the specifics of the case before the mock trial begins. The attorneys and the witnesses will explain the case from their points of view. You must listen carefully to try to determine whether the witnesses are telling the truth, lying, or perhaps not even contributing any useful information to the case.
3. Take good notes on the Juror's Form (see following page) during the trial and refer to these notes during deliberations.
4. After the case is presented, the judge will ask you to retire to the jury chamber to come up with a verdict of "guilty" or "not guilty." Once a decision is reached, you will return to the courtroom and give your decision to the judge.
5. The jury's verdict is final. Remember that the defendant is innocent until proven guilty beyond a reasonable doubt. A "hung jury" is a jury that cannot reach an agreement by consensus about the guilt or innocence of the defendant. If the defendant is acquitted, he or she can never be retried for the same offense.



6. Try to watch a television show such as *Law and Order* to get a sense of how courtroom flow, objections, and questions go in a trial.
7. If you need help or have any questions, ask the teacher.
8. Good luck and have a good time with this!

Juror's Form

Packet 3-5

Listen carefully to the trial and take good notes. These notes will help you during the deliberations.

| | Prosecution | Defense |
|--------------------------------------|-------------|---------|
| Opening Statements Name _____ | | |
| Prosecution Witness #1 Name _____ | | |
| Prosecution Witness #2 Name _____ | | |
| Prosecution Witness #3 Name _____ | | |
| Defense Witness #1 Name _____ | | |
| Defense Witness #2 Name _____ | | |
| Defense Witness #3 Name _____ | | |
| Closing Statements Name _____ | | |

Mock Trial of Fred Korematsu

Time

2 class periods (block scheduling, 90 minutes per period) or 4 class periods (45 minutes per period)

Overview

After proper preparations, students will witness and participate in a mock trial of the federal district court case of Fred Korematsu which took place in California in 1942.

Essential Question

- In time of war, how should the government balance national security and individual liberties?

Objectives

- Students will develop questions and arguments.
- Students will hone their listening and observation skills.
- Students will participate in a mock trial.

Guiding Question(s)

- (See essential question.)

Materials

- Courtroom materials (robe, gavel, digital camera, video camera, tape-recording device, courtroom signs for participants, podium or large table for judge to sit behind, small microphone for witness to use if possible, easel with pad for use during trial, California flag [or drawing of one], American flag, etc.)
- Large multipurpose room or stage for trial (otherwise just use classroom and arrange desks appropriately)
- Brief biography of Fred Korematsu, written by Eric Yamamoto and May Lee, downloaded from the Asian American Bar Association of the Greater Bay Area's Web site: <http://www.aaba-bay.com/aaba/showpage.asp?code=yamamotoarticle> (accessed September 3, 2009)

Background

To see a student perspective of the mock trial, please see the four drawings done by a court artist in this unit's author's class. They are included at the end of this lesson.

Activities

- Make sure that everyone is set up and ready to go, including the tech people, court artists, court reporter, etc.
- Start the trial.
- Don't be afraid to interrupt the proceedings to correct things. For example, the judge may have to cut off questioning at some point for each witness if it goes too long. It is often helpful for the judge to call several recesses during the trial to clarify things with attorneys.
- The opening statements and the direct and cross-examinations of all three prosecuting witnesses should be completed in the first 90 minutes. (If not, simply make adjustments on the next day.)
- The direct and cross-examinations of the defense witnesses and the closing statements should be completed within the second 90 minutes.
- The judge will then issue instructions to the jury, who will deliberate and make their decision. Normally the jury would just decide on the guilt or innocence of Mr. Korematsu, but for the sake of this mock trial and by overwhelming request of students who have done this unit in the past, the jury is asked to rule on the guilt or innocence of Mr. Korematsu in violating Civilian Exclusion Order No. 34 and then will be joined by the judge to rule on the constitutionality of Executive Order 9066. Reiterate that in real life, the judge alone would rule on constitutional issues.
- After the verdict is reached and read to the court, share with the class the actual 1944 court ruling: Mr. Korematsu was convicted and placed under five years' probation. Read aloud to the class Fred Korematsu's biography, downloaded from the Asian American Bay

Association of the Greater Bay Area's Web site. Begin reading where Lesson 1 left off.

- Discuss and debrief following trial.
- Reintroduce the unit's essential questions and ask students to answer them a second time based on new insights and content they gained throughout the course of the unit.

Extensions

- Give students a prompt and have them write an essay regarding Arab Americans: *After the September 11, 2001, attacks, should Arab Americans have been confined? What can people today do to prevent this from happening again?*
- Watch the 1990 film *Come See the Paradise*. (It is rated "R," so it may be necessary to preview it and get permission to show the movie in class.) This movie tells the story of a Euro American man who falls in love with a Nisei woman in Little Tokyo in the 1930s. They run away to Seattle to marry and start a family, but their lives are disrupted when the husband is arrested in a union protest and then when the bombing of Pearl Harbor prompts the exclusion and removal of people of Japanese descent from the West Coast. Be sure to point out the historical inaccuracies in the film, although students will likely already be aware of some of them.

References

- Bai, Matt. "He Said No to Internment." *New York Times Magazine*, December 25, 2005. http://www.nytimes.com/2005/12/25/magazine/25korematsu.html?_r=2&pagewanted=all (accessed September 3, 2009).
- Irons, Peter. *Justice at War: The Story of the Japanese American Internment Cases*. Berkeley and Los Angeles: University of California Press, 1993.
- Muller, Eric. "Foreword." *Law and Contemporary Problems* 68, no. 2 (spring 2005): 1–6.
- Schoales, Gary Parker. *Justice and Dissent: Ready-to-Use Materials for Re-creating Great Trials in American History*. Upper Saddle River, N.J.: Center for Applied Research in Education, 1994.
- Yamamoto, Eric, and May Lee. "Excerpts from a Brief Biography: Fred Korematsu." Asian American Bar Association of the Greater Bay Area. <http://www.aaba-bay.com/aaba/showpage.asp?code=yamamotoarticle> (accessed September 3, 2009).

Sample Student Work:

Court Artist Drawings

