**Honors Practical Law**

**“The Supreme Court Volume III – A Nation of Liberties - KEY”**

**Mr. Fernandez**

1. Made Americans defenders of liberty world wide – six new justices on the Court – enters war against fascism – America defines itself in terms of the conflict – changed American ideas on individual liberty and governmental power – WWII – McCarthyism – Civil Rights – Cold War
2. Hugo Black – a prickly man – certain and driven – called himself an old hillbilly from Clay County, Alabama – courtroom was entertainment in Clay County – never finished high school or college – got admitted into University of Alabama law school – ambitious – by late 20s was famous trial lawyer and then successful prosecutor – lost 20 out of over 1,000 trials – could manufacture crying – U.S. Senator
3. FDR – Black was a bombshell – an intellectual leftist liberal from the South – confirmed 63-16 – takes trip to Europe – rumor that he was a Klan member – couldn’t have been elected if he had not been a member of the Klan – 15,000 out of 20,000 were members in Clay County
4. Swore to shield and preserve white supremacy as a member –
5. Through a radio address from Washington, D.C. – this was his grandest trial – largest crowd in history at this point – only behind abdication of Edward VIII – confessed to having been a member and then renounced his membership – but not the Klan itself…
6. He wouldn’t have to buy a robe – he could dye the white one black
7. Kids kicked out of school in Minersville, PA – Gobitis kids – Jehovah witnesses – against faith to salute flag – kids expelled – filed suit and won in lower courts – new Supreme Court
8. Five
9. Most famous lawyer in the country – Austrian immigrant at age 12 – Harvard Law School – founding member of ACLU – defended Sacco and Venzetti – advised Roosevelt as Governor and New Deal – Hot Dogs were members of the Court who supported him
10. School Districts have the right to enact reasonable legislation – demonstrated judicial restraint – democracy must be expressed through the legislative branches and not the court
11. Paid the price – kids had to be sent away as they were threatened by vigilantes – they are being tarred and feathered, forced to kiss the flag – kidnapped and castrated – several of the Justices confessed they had been wrong
12. Barnette v. W. VA – in support of Jehovah Witnesses – one of the first times the Court comes together that judges could support civil rights and liberties – Frankfurter was in dissent!
13. Is the Constitution to be the victim of shifting winds and doctrine? Constitution is the holy word of the Framers
14. Fear of communism – McCarthy scare – fear of China going Communist – Korean War
15. Makes it a crime for someone to advocate overthrowing the U.S. government
16. Eleven – they had taught Marxist/ Leninist doctrine – charged with conspiring to overthrow the government
17. Was the most important to democratic government – “Congress shall make no law…” Court voted 7-2 to sustain the law convicting the Communist leaders – Black and O’Douglas dissented… Black treated Constitution as the holy word of the Framers – he said that public opinion would support the court’s decision, but there was hope that later on the Court would re-instate protected liberties
18. Hoover’s response… wiretapped Black’s home phone – opened a secret file on the dissenters
19. Majority Opinions could be written in order to protect court coalitions; however, he could say whatever he wanted to say in the dissenting opinions…
20. Plessy v. Ferguson (1896) – separate everything was “blessed” by the Supreme Court
21. Only about 20% of African Americans in the South were registered to vote - NAAC P lawyers decided not to wait on Congress – so they got to work
22. White Primary, housing covenants, college admissions – decisions on elementary and high schools were still to come…
23. School segregation
24. Thurgood Marshall and Robert Carter – Legal Defense Fund
25. Five cases consolidated into Brown v. Board – against John W. Davis – over 140 Supreme Court appearances – blacks should be happy with conditions – didn’t states have rights to educate as they saw fit? He thought he had Vincent and Reed – he had given up on Black and O’ Douglas – the Justices never got to a vote – JUSTICE BLACK referred to segregation as “Hitler’s Creed” – Eisenhower was luke-warm on overturning Plessy
26. Earl Warren – former governor of California – deal made at Republican convention – he was involved in Japanese relocation – Black treated him kindly – grilled out and drank together – Warren asked Black to run the conferences at first – then Warren ran right into Brown v. Board in 1953
27. As a moral issue – to uphold Plessy says that blacks are unequal – regardless of the legality of the issue – he wanted unanimity among the branches – the court couldn’t enforce anything…
28. Walks hall, talks to justices, meets for lunches – he was at core a politician – finally got it 8-1 with Reed being the lone dissenter and then asked Reed to do what was best for the country
29. A united front against racism in America –
30. Warren starts off in a bland manner and then dropped the bombshell…. The place was “electric” when he said the word “unanimously” – Jim Crow Era was over – textbooks for blacks and band instruments would no longer be handed down… freedom to go to any college or university – it was the Magna Carta, or Second Emancipation, for blacks
31. 14th Amendment – Black said, yes, the decision was wonderful, but that people were going to die… “The tree of liberalism will have to grow with people’s blood”
32. Safety
33. Black was cut off by friends and his son had to leave the state of Alabama – burned in effigy – schools had not really changed – a full year passed before the court would decide how to proceed… “with all deliberate speed”
34. People’s blood
35. Brown I had only said that segregation was unconstitutional – Brown II (1955) Frankfurt said…“with all deliberate speed…” which invited a process which was deliberate, but not necessarily speedy – black historian says in documentary that this was meant to ease the South’s acceptance of it – the court was wrong to use such language…
36. Further refusal to cooperate
37. Only 1/1000 African Americans were attending integrated schools – freedom rides – sit-in movement – radicalizes southern politics
38. Police Commissioner in Birmingham – released dogs and fire hoses on protesters – takes up all of nightly news
39. Associate Justice Frankfurter resigned from the court – this was Black’s time with a liberal majority and he chose to revisit the schools in Prince Edward County, Virginia to review the schools situation there – the liberals had 5 votes – one of the five original cases in Brown… embarrassing because the schools there were still closed…
40. The time for all deliberate speed has run out – the south can no longer delay – he is angry over the fact that the South has not followed the order from Brown II – Prince Edward County imposes a tax to support the schools
41. President Johnson in a landslide – 2/3 majority in House and Senate for Democrats – the election told the Supreme Court they had been correct in Brown… Governor George Wallace says…. “Segregation now, segregation forever.”
42. Was a U.S. Senator in D.C. – Gibbon and Carlisle – Thucydides – annotated – argued with the author – Black had witnessed discrimination in the South, because the South
43. No rights to an attorney – no protection from police – states did not have to abide by the Bill of Rights
44. The Civil War had changed all that – the Bill of Rights must protect against state discrimination as well as the federal government… original purpose was to extend to everyone in the nation the protections of the Bill of Rights…
45. Broke into a pool hall – the indigent deserved an attorney –this case was the heart of Black’s theory of applying the 14th Amendment to the states
46. Black and O’Douglas split over old state law that made it a crime to give contraceptives, or even advice, to prospective parents… Douglas didn’t ground right to privacy anywhere in Constitution, but it is implied by several amendments – everyone else could go to hell – he didn’t have to justify it – Black, on the other hand, said the right to privacy didn’t exist unless specifically granted in the Constitution…
47. 1966 – Miranda – Black finally and dramatically made a statement in support of citizens rights to silence and an attorney – a coerced confession could not be used in trial – state criminal justice systems would have to play by the rules
48. Hugo Black
49. They were written for that purpose – yes, why shouldn’t they??? Of course giving the right to an attorney makes it more difficult to convict… the country around Black was changing
50. GOP nominee in 1968 – Nixon – spoke out against the Warren Court
51. Chief Justice Earl Warren swore in Nixon, a man who ran for president in order to change Warren’s notion of civil liberty under the Bill of Rights – Nixon said they had gone too far…
52. Racial desegregation, eliminated Jim Crow, protected against search and seizures, enforced the Bill of Rights at the state level…