**Honors Practical Law**

**“The Supreme Court: Episode IV**

**The Rehnquist Revolution - KEY”**

**Mr. Fernandez**

Answer each of the following as you view the PBS documentary:

1. What was Richard Nixon promising America in the presidential campaign of 1968?
   1. Order, peace, and security
   2. To end the chaos in America
2. What rare opportunity did President Nixon have before him in the late 1960s?
   1. To appoint four justices in less than two years
3. What qualities did President Nixon want in a Supreme Court Justice?
   1. Strict constructionist, conservative, belief in law and order, judicial experience, but young
4. What was a “strict constructionist”?
   1. Those who would go against the Warren court
   2. Side with the law, not the criminals
5. Who did President Nixon nominate as the 15th Chief Justice of the U.S. Supreme Court?
   1. Warren Burger
6. How many nominees of President Nixon’s administration were rejected by the Senate in confirmation hearings?
   1. two
7. Write a brief biographical sketch of William Rehnquist.
   1. 47 – very conservative – against Warren court
   2. Strong on law and order
   3. “Is he Jewish?” Nixon
   4. Flamboyant dresser, #1 in class at Stanford, wrote against liberal court decisions
   5. Gambled on politics
   6. Monitored anti-war groups
8. Describe Rehnquist’s confirmation hearings before the U.S. Senate.
   1. Allegation that in Phoenix he had worked as a poll watcher keeping blacks from voting
   2. Solid block of democrats against him on the Senate judiciary committee
9. What were Rehnquist’s thoughts concerning *Brown v. Board of Education of Topeka* (1954)?
   1. Magazine published a memo he had written for Justice Jackson saying that the court should not try to overturn segregation in the south.
   2. “A man who kicks negroes in the teeth is unfit to sit on the Supreme Court,” said a Rehnquist critic
10. How did President Nixon advise the Justice Rehnquist by telephone?
    1. Don’t let the “heat” change your views.
11. What Texas law came under review by the Supreme Court, even before Rehnquist had taken the oath of office?
    1. Jane Roe, 21 and pregnant – TX law only allowed abortion to save mother’s life.
12. How did the “right” to have an abortion apparently become synonymous with the women’s rights movement of the 1960s and 1970s?
    1. It meant a right to privacy, choice, control… fit in with the ERA movement
    2. ACLU was starting women’s rights project in early 70s.
13. What was Justice Blackmun’s response to hearing his wife and daughter’s opinions concerning the Texas abortion law?
    1. He had been council to the Mayo Clinic in Minnesota
    2. He went to lie down with a headache
14. Describe the Supreme Court’s opinion in *Roe v. Wade* (1973).
    1. Legalized abortion
    2. The decision within the first three months belongs to woman and doctor
15. How did Justice Blackmun constitutionally justify his protection of the Texas abortion law?
    1. Doctor’s rights… the state should not tell doctors how to regulate pregnancy
    2. Much information about the history of abortion
    3. No constitutional justification – creates the “right of privacy” in 14th Amendment
16. What were Justice Rehnquist’s thoughts concerning *Roe v. Wade* (1973)?
    1. Viewed constitution narrowly protecting rights
    2. Not addressed in constitution at all
    3. No precedent about abortion
    4. States should have primary authority – didn’t need Supreme Court to get involved
17. What moniker did the clerks of the Supreme Court give Justice Rehnquist?
    1. “The Lone Ranger” – on short end of most decisions from the court
18. According to retired Justice Sandra Day O’Connor, what was Justice Rehnquist’s response to being the only dissenter on the court?
    1. Was not a self-doubter, nor did he feel the need to persuade everyone else
    2. He was ok being alone with his opinions
19. Explain the influence of Justice William J. Brennan on the Supreme Court.
    1. One of the most liberal in history – over 30 years
    2. Had greater influence on domestic policy than any other president
    3. Had empathy for weak and powerless
    4. What good was the Constitution if it didn’t help Americans
20. Describe Justice Brennan’s style on the Court.
    1. He walked the halls, wrote memos, all to influence opinions on the court
    2. “He had a powerful warmth about him.”
21. Describe Chief Justice Warren Burger.
    1. Conservative – fond of quoting British historian… “The American Constitution was all sail and no anchor.”
    2. No political skills
22. “The Constitution is all \_\_\_\_\_\_\_\_ and no \_\_\_\_\_\_\_\_.” Chief Justice Burger
    1. Sail; anchor
23. Who would lead the counter-revolution to the liberal Warren Court of the 1960s?
    1. Rehnquist
24. In what way was *Fay v. Noia* (1963) the high-water mark of the Warren Court, as well as Justice Brennan’s “magnum opus”?
    1. Any conflict could petition to overturn a state’s decision
25. Describe the background of *Wainwright v. Sykes* (1977).
    1. Criminal procedure case – had been convicted based upon confession
    2. He was mirandized and convicted
    3. Five years later it shows up at Supreme Court… he said he never understood he had the right to remain silent
26. How did Justice Rehnquist view the defense attorney?
    1. Shifty – wants to get in front of sympathetic federal court
27. What is the law’s duty, or job, according to Justice Rehnquist?
    1. The law is about rules, which must be followed.
    2. The laws job is to order, not to foster progress.
28. Describe the “Majority Opinion” in *Wainwright v. Sykes* (1977)?
    1. 7-2 Nixon appointees against Rehnquist – Brennan and Marshall (from Warren Court) dissenting
29. In what way was *Wainwright* a victory for President Nixon?
    1. His justices carried the majority opinion against the Warren Court appointees
30. Who became President of the United States in 1980?
    1. Ronald Reagan… agenda which became known as “family values”
31. Which Supreme Court Justice decided to step down in June 1981?
    1. Potter Stewart
32. Who was the first woman to be nominated to serve as a Justice on the U.S. Supreme Court?
    1. Sandra Day O’Connor – from Arizona – deep political connections
    2. Jimmy Carter had appointed many women in the federal courts, but they were all liberal
    3. Friend of Barry Goldwater’s
33. How did Sandra Day O’Connor know Justice Rehnquist?
    1. Met on houseboat vacation in Utah
    2. Met at age 16, law school classmates – had dated
34. What were the specific conservative hopes for Justice O’Connor?
    1. Overturn Roe v. Wade
    2. Bring God back to public schools
    3. Overturn affirmative action
35. Who came to President Reagan in 1986 to announce his retirement?
    1. Chief Justice Burger
36. Who did President Reagan nominate as the 16th Chief Justice of the U.S. Supreme Court?
    1. Bill Rehnquist
37. Who did President Reagan nominate to replace Justice Rehnquist?
    1. Antonin Scalia
38. Describe Antonin Scalia’s reputation.
    1. “The real thing”
    2. Clear views – judicial restraint
    3. Charmed Senate and sailed through the vote
39. What did Chief Justice Burger say he would miss the most about the Supreme Court?
    1. “Really nothing.”
40. What did people appreciate about the new Chief Justice?
    1. A relief to everyone because he ran the court well.
    2. Had their respect. Intellectual rigor was appreciated.
    3. Fair-minded and self-deprecating
41. Whose retirements in the early 1990s closed the era of liberalism associated with the Warren Court?
    1. Brennan and Thurgood Marshall
42. Name the three justices appointed between 1988 and 1991 who rounded out the conservative majority on the Supreme Court.
    1. Anthony Kennedy
    2. David Souter
    3. Clarence Thomas
43. What case brought the controversial issue of abortion back to the U.S. Supreme Court in 1991?
    1. *Planned Parenthood v. Casey*
44. Why did Justice O’Connor become such a figure of interest?
    1. First female justice – one of the justices in the 1980s who had argued against *Roe*
45. Describe the “Joint Opinion” written by Justices O’Connor, Kennedy, and Souter.
    1. Did not accept the trimester rigid framework of *Roe*, but did not overturn it.
46. What was the “heart” of the opinion?
    1. Whatever we think of Roe, we can’t simply overturn it based on political views and pressure… we are bound by precedent, unless it clearly must be overturned
47. According to Justice O’Connor, why is the principle of “precedent” so important?
    1. It becomes part of the law. Should not be overturned for light reasons.
48. Which Justice was angry over the Supreme Court’s decision in *Casey*?
    1. Scalia – apocalyptic in his opinion.
    2. “The imperial judiciary lives.” Scalia
    3. Founders envisioned a more modest role of the Supreme Court.
49. Why did Chief Justice Rehnquist believe there had to be limits on the powers of Congress under the “Commerce Clause”?
    1. The federal government would dominate the country completely.
50. Describe the “Majority Opinion” in *U.S. v. Lopez* (1995). Explain the significance of this decision.
    1. A challenge to Congress’ power to restrict guns in a school zone
    2. How does this relate to Congress’ power to regulate commerce?
    3. I didn’t, according to the Rehnquist court.
    4. These regulations must take place at state level.
    5. First decision of its kind in 60 years… lead by Chief Justice Rehnquist.
51. What issues had the Rehnquist Court NOT been successful in addressing in this “revolution”?
    1. Abortion, obscenity, school prayer, and Miranda
52. What were Chief Justice Rehnquist’s thoughts concerning *Miranda*?
    1. Court shouldn’t be telling cops what to say.
    2. He hated the decision – too many rules on police.
    3. Looks like a court-created remedy, not something constitutional.
53. Describe the Court’s opinion in *Dickerson v. United States* (2000).
    1. Rehnquist writes majority – yes, Miranda was correct – the Constitution requires the reading of these rights
54. What was the “overwhelming characteristic” of the Rehnquist Court?
    1. Confidence that the court is able to resolve all the most contested questions of American life… not a social revolution as had been hoped for by conservatives
55. What percentage of the U.S. public expressed confidence in the Supreme Court in 2000?
    1. 85%
56. According to the Constitution, who has the final decision concerning the election of electors to the Electoral College?
    1. states
57. Describe the decision of the Supreme Court in *Bush v. Gore* (2000).
    1. Stopped the manual recount
    2. Supreme Court maintained reputation with public
58. How did this decision “slap down” the Florida Supreme Court?
    1. Reversed their decision about the recount
59. What two conflicting views did Americans entertain concerning the Rehnquist Court’s decision in *Bush v. Gore* (2000)?
    1. It was basically ideological.
    2. The court could be trusted.
60. Explain the legacy of Chief Justice William Rehnquist.
    1. He was its protector.
    2. People talked about him as an unassuming man.
    3. Didn’t seek the limelight. Left court with authority it didn’t have when he came.