New Deal on Trial:
Prosecuting Attorneys Handbook

The charges are:

a) the New Deal gave false hope to millions during the Great Depression
b) during the New Deal President Roosevelt acquired excessive power that made him a virtual dictator
c) FDR and the New Deal turned the U.S. into a socialist country

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<tr>
<td>New Deal on Trial Summary + written up summaries of your four witnesses--complete pages 23 &amp; 28-31 of this packet</td>
<td>Wed. 11/20</td>
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<tr>
<td>Written up summaries of all four opposing witnesses due --pages 24-27 of this packet</td>
<td>Monday 12/2</td>
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<td>Complete Reinforcing Background Information Worksheet pg. 32 of this packet</td>
<td>Tuesday 12/3</td>
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<td>Come very well prepared to direct questioning of both prosecution and defense witnesses including a typed up opening statement (no more than 1 minute) and closing statement (again, no more than 1 minute)</td>
<td>Wed. 12/4</td>
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The charges are:
a) the New Deal gave false hope to millions during the Great Depression
b) during the New Deal President Roosevelt acquired excessive power that made him a virtual dictator
c) FDR and the New Deal turned the U.S. into a socialist country

You have been selected as one of two **prosecuting attorneys** in this hypothetical trial assessing the historical significance of the New Deal. To make this trial a successful learning experience for you and your classmates, work diligently to apply the suggestions below.

**Lawyer Instructions & Tips**

1. You are trying to get the jury to convict FDR and the New Deal (find them guilty) of the charges listed above.

2. Immerse yourself in the 1930s time period as much as possible. Read over and analyze all the material before the trial begins. Also strive to master your American history textbook’s content on Franklin Roosevelt and the New Deal. If you have a chance to hear/view any of the trial’s historical figures on YouTube prior to acting as an attorney, do so.

3. You may divide the responsibilities and tasks with the other attorney on your side. Meet several times in advance to rehearse your parts. Be sure, however, that both of you are prepared to question ALL the witnesses and direct the trial if need be—sometimes there is an unforeseen family emergency, illness, etc. and you will have to conduct your side of the case on your own.

4. Work up some strategies or techniques to gain the upper hand over your opponents.

5. Come to the trial dressed as a lawyer would dress. Type up and bring an opening statement (no more than 1 minute) to tell the jury about what you will try to prove. Also, type up and bring a closing statement (again, no more than 1 minute) to summarize for the jury at the end why they should vote for your side.

6. Make sure your witnesses are well prepared. Continue to drill and coach them in how to answer the questions they will be asked. The “Sample questions to ask” in the packet are models, but you do not have to use those exact questions. Feel free to rewrite any of these questions in your own words. Feel free to also write additional questions.

7. During the trial, when you feel the other side is overstepping its authority while questioning witnesses, you can object on one of these grounds:
   a) “Objection, your honor. My opponent is badgering the witness.”
   b) “Objection, your honor. My opponent is putting words in the witness’ mouth.” Or “…is leading the witness.”
   c) “Objection, your honor. The question is irrelevant and immaterial.”

Then wait for the judge to rule. The judge will say either **sustained**, meaning a new line of questioning is called for or **overruled**, meaning that the attorney you objected to may continue with his/her line of questioning.
This trial is going to be awesome! As long as all lawyers and witnesses are prepared, you and your classmates will not only enjoy the trial experience, but also learn a lot about the New Deal. Your goal is to be as prepared as possible because the most prepared side usually wins. This means, everyone must know and understand their part. No one can go up to the stand and simply read their part, so preparation is vital.

Responsibilities…to know and act your part on the day of the trial. This means not READING questions, responses, etc., but rather KNOWING your part. Lawyers may refer to notes, but again, need to KNOW their part. You will need to “dress” your part by bringing in props, costumes, etc. The more you get into it and the more you stay in character during the trial, the more believable you will be to the jury!

**Trial Performance: Grading Rubric Lawyers**

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<th>Excellent</th>
<th>Good</th>
<th>Satisfactory</th>
<th>Needs Improvement</th>
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<tr>
<td>Gave good opening statement <em>(no more than 1 minute)</em>, laying out the case for the jury OR gave good closing statement <em>(no more than one minute)</em>, summing up the case and making a last appeal to the jury</td>
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<td>Skillfully directed the examination of both defense and prosecution witnesses to argue your case</td>
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<td>Clearly understood the details of the case, including the charges against the president and the New Deal, the arguments for and against, and the stories of the individual witnesses</td>
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<td>Clearly worked with all the witnesses to make sure they were prepared; all of the witnesses clearly understood their parts and carried them out well</td>
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<td>Dressed the part</td>
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**Grading Rubric Trial Performance Witnesses**

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<tr>
<td>Responded in character to questions from prosecution lawyers</td>
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<tr>
<td>Responded in character to questions from defense lawyers</td>
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<td>Gave detailed answers, demonstrating a good knowledge of the history of the New Deal and their character; did not take it for granted that the jury knew about their character and the New Deal</td>
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<td>Did not read from any prepared speech or written answers, but responded in the moment as a real witness would</td>
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<td>Dressed the part</td>
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1. Teacher hands out the JUROR’s LOG and explains it. (Only the judge and attorneys are exempt.)
2. Judge enters and everyone rises. He reaches podium, pounds gavel, and says, “Everyone be seated. The case of the New Deal will now begin. Bailiff, swear in the jury.”
3. Bailiff swears in jury. “Please stand and say ‘I will’ at the end of this oath. ‘I promise to impartially judge this case on the merits of the testimony I hear.’ Do you so swear?”
4. Judge: “This case has come to court to determine the historical merits of the controversial Administration of President Franklin D. Roosevelt—the New Deal. Will a representative of the New Deal stand? The charges against the New Deal are as follows: 1) The New Deal gave false hope to millions during the Great Depression, 2) During the New Deal President Roosevelt acquired excessive power that made him a virtual dictator, and 3) FDR and the New Deal turned the U.S. into a socialist country.
5. Judge: “How does the New Deal plead?”
7. Judge: “Now that a not-guilty or innocent plea has been registered, we will begin to hear testimony. Does the prosecution have an opening statement?”
8. Prosecution delivers a brief opening statement (no more than 1 minute).
9. Judge: “Thank you. Does the defense have an opening statement.”
10. Defense delivers a brief opening statement (no more than 1 minute).
11. Judge: “Thank you. We will now allow the prosecution to call its first witness.”
12. Prosecution examines its first witness--former President Herbert Hoover.
15. Defense cross-examines.
17. Defense cross-examines.
20. Judge: “Does the prosecution have any further witnesses?”
21. Prosecution: “No, your honor. We rest our case.”
22. Judge: “Does the defense wish to call its first witness?”
23. Defense examines its first witness--Louise “Ma” Kincaid.
24. Prosecution cross-examines.
26. Prosecution cross-examines.
28. Prosecution cross-examines.
29. Defense examines its fourth witness--President Franklin Delano Roosevelt.
30. Prosecution cross-examines.
31. Defense: “Your honor, the defense has no further questions.”
32. Judge: “Very well. It is time to hear any closing statements. The defense will be heard first.”
33. Defense delivers its closing statement (no more than 1 minute).
34. Prosecution delivers its closing statement (no more than 1 minute).
35. Judge: “It is now time to remind the jury that you will base your verdict on only the testimony you have heard. The charges against the New Deal are as follows: 1) The New Deal gave false hope to millions during the Great Depression, 2) During the New Deal President Roosevelt acquired excessive power that made him a virtual dictator, and 3) FDR and the New Deal turned the U.S. into a socialist country. Bailiff, escort the jury to the deliberation room.”
36. Jury retires to deliberate.
37. Upon return, Judge: “Has the jury decided on a verdict?”
38. Jury foreman: “We have, your honor. We, the jury, find the defendant, the New Deal, guilty/not guilty.”
39. Judge: “It has been decided after a fair and impartial jury trial that the New Deal is guilty/not guilty.” If not guilty, thank all participants, “release” from custody the New Deal. If guilty, decide quickly a penalty or fine. Then thank all participants, and say, “This case is closed.”
New Deal on Trial: History & Background

American historians can find no hotter topic than the New Deal—the administration and policies set forth by President Franklin Delano Roosevelt during the Great Depression of the 1930s. Yet, no one disagrees that the New Deal changed America forever. The issue that divides Americans, however, is this: Was the New Deal a radical departure from the past, or was it merely an extension of progressive reforms already part of the American liberal tradition?

Origins—Two or three years after the Stock Market Crash of 1929, Americans found themselves in dire straits. What everyone thought was temporary now seemed permanent. The effects of the greatest and most severe depression in United States history were devastating. As many as 12 million—perhaps a third of the entire labor force—were out of work. By 1932, clearly the worst year of all, many were receiving relief from churches and private charities. Some had given up and were near starvation. Only bread and soup kitchen kept them alive.

Many Americans were psychologically starved as well. The “hard times” lacerated many Americans’ confidence in themselves. Robust and self-respecting men were suddenly reduced to indigent job seekers. When few opportunities came up, many fathers lost faith in themselves and abandoned their families. Many jobless Americans felt that they, somehow, were responsible for their plight. Anxiety and depression plagued millions.

New Deal—To combat the physical and spiritual malaise that blighted America, Roosevelt, chosen in landslide over the incumbent, Herbert Hoover, in November 1932, dedicated himself to attacking the widespread misery and economic collapse. It was to be the most challenging task ever for a United States president since Abraham Lincoln, who faced a divided union in 1861.

After his inauguration in March 1933, Roosevelt quickly girded for action. What followed was an avalanche of “alphabet soup” agencies and acts to combat the various results of the Great Depression. Each agency tried to solve or lessen a desperate problem. For example, the Civilian Conservation Corps (CCC) attempted to give work on environmental projects to young men who, heretofore, had been without work. The Agricultural Adjustment Administration (AAA), to name another, tried to deal with extremely low crop prices by getting farmers to restrict supply of their crops and guaranteeing them a minimum price for them. To aid in creating such bills and to pressure Congress to pass these bills, FDR turned to Democratic party veterans plus a new “brain trust” of intellectuals and college professors. From their fertile minds came, among other programs, the National Recovery Administration (NRA), which worked closely with businesses to set work hours and wages, the Federal Emergency Relief Administration (FERA) that gave direct cash payments to families in need of food, the Tennessee Valley Authority (TVA) that created a series of hydroelectric dams to generate power and stop flooding, and Social Security to provide money for people after retirement. Good or bad, the idea that “something must be done” permeated the New Deal from 1933 through 1936.

Critics—With the Roosevelt charm in evidence, public confidence increased; the debilitating effects of the Great Depression seemed to lessen. However, critics of FDR’s New Deal sprang up from the start and mercilessly attacked the administration’s methods. To many critics, the New Deal was socialistic, even communistic. It was, critics said, ruining the free enterprise system when it allowed massive government interference into the regulation of the nation’s economic life, sick as it might be. Recently defeated President Hoover was correct, they reasoned. This former president stressed that the nation should let the “rugged individualism” of its people solve the problems of America, as it had always done. Tough people will manage their difficulties. Don’t let Big Brother destroy initiative. When big government enters an individual’s life on such a grand scale, it is pure and simple socialism!

Other critics focused their anger not on the socialistic New Deal programs but on the architect of them all—FDR—“that man in the White House.” They stressed that he was the one who gained the most from all this intrusion of big government spending and power politics. Roosevelt, quite simply, was becoming a dictator. These critics were convinced that FDR was using the pretext that the country was in a dangerous and historically unique situation to exploit the economic catastrophes so that he could become a literal dictator.

Supporters While the critics hounded his actions, FDR had legions of supporters. Among their beliefs was the idea that FDR was working within the capitalistic system to save it, not destroy it. The New Deal programs and agencies were not socialistic, illegal, or unconstitutional; they were merely extensions of ideas and precedents already part of the American system. At worst, these agencies were created by stretching the Constitution just a bit—much the same way Abraham Lincoln and Woodrow Wilson had stretched the great document to meet difficult times and situations. Additionally, FDR was no power hungry politician. He was, in fact, a conservative well aware that he must act to preserve the precious system his critics said he was sabotaging.

New Deal on Trial: With all this firmly in mind, it is time to put the New Deal on trial. We must properly evaluate its historical importance, its legality, and its successes and failures during the Great Depression.

- Did it relieve suffering, or did it give false hope?
- Did it create a dictator or a benevolent leader destined for greatness?
- Did it change America into a socialist nation and destroy the free enterprise system, or did it save our nation in its time of gravest economic peril?
President Herbert Hoover

Background

You are former President Herbert Hoover, a man whom Franklin Roosevelt beat decisively in the 1932 presidential election. Out of office for about six years now, you will enjoy this opportunity to testify for the prosecution. You will harshly criticize the New Deal and the man who is most responsible for its strategies and philosophy.

When you were president from 1929 to 1933, the stock market crashed and you, as the country’s leader, were blamed–unfairly, most would agree. Instead of giving handouts or welfare which you consider socialistic or communistic, you encouraged private agencies, charities, and institutions to help the hungry and poor. You believe that the federal government should not give handouts to people—that they will lose their personal initiative--or “rugged individualism.” You believe that too much government intrusion or invasion into a person’s life robs him of his self-reliance and responsibility and, in the long run, makes a person lazy, expecting the government to provide for him. You have already seen it happening under FDR’s New Deal, and you believe that this mentality, like a cancer growing from within, could kill the country.

As the crisis worsened, you attempted to take other actions to remedy the human suffering and economic problems; you just felt that welfare was the wrong way to go. For example, you passed the Federal Home Loan Bank Act which lowered home mortgage interest rates for farmers and families so they could stay in their homes and avoid foreclosure. You also got Congress to create the Reconstruction Finance Corporation (RFC) which was given the power to loan out $2 billion to such businesses as banks, railroads, and similar industries. You believed that these loans would help get businesses going again so that people would get hired again and start earning paychecks. Money would, therefore, reach individuals when they earned money from working, not from one-time handouts or “freebies.” They could feel the dignity of working for their living, rather than the embarrassment of accepting welfare.

You have been informed that in some New Deal programs like the Civilian Conservation Corps (CCC) and the Works Progress Administration (WPA), jobs are being artificially made up, like hiring men to dig holes and hiring other men to fill up the same holes, just to create employment. This is completely inefficient, wasteful, and dare you say, idiotic. And it doesn’t make people feel good about themselves doing these silly made up jobs.

To those who felt that you didn’t do anything for the poor and unemployed, in fairness you did decide to make $300 million available to state governments to give to people who were the very worst off. However, you did not feel that the government should go too far with such programs and that the New Deal had indeed gone way too far.

You believe that the New Deal is taking away way too much self-reliance and honor from individuals. Its agencies have crept into people’s lives and regulated them. The National Recovery Administration (NRA) has even pressured businesses to control how much they pay their workers and how many hours they can work. You believe that such dramatic government intervention as the New Deal has poisoned our political, economic, and social freedom. You are convinced that FDR has gained too much power during the New Deal. And that fact, coupled with the intrusion of federal government into our lives, was and is dangerous.
Herbert Hoover

Questions to Answer

Prosecution Questions
1. President Hoover, it is an honor to have you here with us today. So Mr. President, when the Depression struck, what was your philosophy about how it should be dealt with?
2. Sir, as president did you take any specific measures to help eliminate the miseries of the early depression and not resort to government handouts? For example, can you explain the purpose of the Reconstruction Finance Corporation (RFC) and the Federal Home Loan Bank Act?
3. What is “rugged individualism” and why do you believe the New Deal is destroying it?
4. What New Deal programs in particular are you most critical of?
5. Mr. President, how do you feel about the federal government gaining so much control over people’s lives? Please discuss your greatest fears about what FDR and his New Deal may ultimately do to Americans and the future of our great nation.

Defense Questions
1. Mr. President, FDR easily defeated you in the election of 1932, didn’t he? Then wasn’t FDR the people’s choice and wasn’t this a rejection of your strategies to deal with the depression? (If Hoover hasn’t yet explained in detail his methods of fighting the depression, ask him, “As president what did you do to try to bring the country out of depression?”)
2. Are you saying, sir, that the New Deal and its architect, FDR, shouldn’t have tried unique measures to solve the depression?
3. Mr. Hoover, why are you so bitter toward the New Deal and Mr. Roosevelt—wasn’t he just trying to deal with widespread misery his own way?

Characterization
- The entire class will enjoy the activity more if you really “get into” your role. Strive to dress and act appropriately during the trial, for what you wear and how you speak and move while you are a witness definitely can add to the trial’s reality.
- Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
- Look up in your textbook or on the Internet to find pictures of Hoover taken during this period. Come up with ideas of your own to make your presentation more interesting and memorable.
Robert Taylor Green

Background

You are Robert Taylor Green, the owner of a large business with offices in several major American cities. You will testify for the prosecution. Before the crash of 1929, your business was very successful. During the early years of the Depression, however, you began to suffer financial losses. Yet, you figured out what it takes to climb out of the hole and did just that. You worked extremely hard, put in long hours and you got your business turned around. Your mottos were: “Tough cookies don’t crumble!” and “When the going gets tough, the tough gets going!” As long as the government left you alone, you were going to do fine and make a decent living despite the downturn in the economy.

However, when Franklin D. Roosevelt’s New Deal was started, your fortunes reversed once more. Just when you had made adjustments and were beginning to earn large profits again, this “socialist” Roosevelt and his buddies started to regulate or control the economy, including all large and small businesses. Now you are going bankrupt and FDR is to blame.

Let us recall what socialism is. Under capitalism, private individuals own and run the businesses of a country. Under socialism, private individuals own some of the businesses, but the government owns and runs some of the businesses too, especially big sectors of the economy like transportation, communications, and energy. Finally, communism is when the government owns and runs all the businesses. What FDR is doing is clearly turning the U.S. into a socialist country and, if not stopped, may lead the country into full communism if we are not careful.

Through a New Deal program called the National Recovery Administration (NRA), the government began to tell you exactly what you were going to pay your workers, how many hours each employee could work, and even how much money you could charge for your product. The NRA’s goal was to see that every major business shortened working hours and raised wages. If each worker could only work thirty hours then more people could be hired. The thing is, how can you run your business with the government controlling your every move. This National Recovery Administration is just pure socialism or communism. I mean, this is the government directly controlling the businesses of the country!!

Worse, the president is blackmailing the businesses to obey the NRA codes by using a ridiculous “Blue Eagle” emblem. If your business followed the new rules, it could display a Blue Eagle symbol on its products with the motto: “We do our part.” Consumers were encouraged to buy things only from companies that displayed the Blue Eagle. So really you had no choice but to obey.

On top of all this, creation of the NRA gave FDR the authority to make any new rules he wanted about wages and working conditions and to impose his own will on businesses. Now, it may have been a few years since you studied the Constitution, but you seem to recall that only Congress has the power to make new laws, not the president. This man is becoming a dictator for God’s sake.

To you the whole idea of the federal government controlling and regulating American business is pure socialism. And since FDR headed the New Deal, which is trying to regulate the economy, he’s the one to blame, the man who dictates the rules; he’s the man who is destroying the free enterprise system.
Robert Taylor Green

Prosecution Questions
1. Mr. Green, did you suffer at all when the early depression hit?
2. But you pulled out of it? How did you manage this?
3. Sir, what happened then—did you have a streak of bad luck after you were back on your feet again?
4. Specifically, you differ with the government’s NRA code. Please explain what the NRA is and why you have such problems with it.
5. Mr. Green, what worries you about the New Deal?

Defense Questions
1. Mr. Green, I understand you almost went bankrupt. Explain for the jury what happened to you.
2. Do you blame the President and the New Deal for the ups and downs of the economy?
3. Sir, do you realize that if others in the economy weren’t helped, no one could do business with you, and therefore, you wouldn’t make any profits?
4. Do you actually think FDR and the New Deal ruined the American system instead of saved it?

Characterization
- The entire class will enjoy the activity more if you really “get into” your role. Strive to dress and act appropriately during the trial, for what you wear and how you speak and move while you are a witness definitely can add to the trial’s reality.
- Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
- Come up with ideas of your own to make your presentation more interesting and memorable.
Chief Justice Charles Evans Hughes

Background

You are Charles Evan Hughes, the Chief Justice of the United States. As such, you are the focus of a large controversy involving the president and the Supreme Court in 1937. Perhaps no other administration in history has had so many of its acts struck down by the high court as Franklin Delano Roosevelt’s New Deal from 1934 through 1937.

Indeed, you and the other “Old Men” on the Court felt much of the New Deal legislation coming out of a rubber-stamp Congress in those years was unconstitutional, and when some New Deal bills came to your court to be tested for their constitutionality, they were struck down, or made null or void. You and the others--at least five of the nine--struck down important New Deal programs like the National Recovery Administration (NRA) in 1935 and the Agricultural Adjustment Administration (AAA) in 1936 (see textbook pp. 456-457).

For example, in the case *Schechter Poultry Corporation v. the U.S.*, you invalidated the entire NRA. The Court ruled unconstitutional the National Industrial Recovery Act (which created the National Recovery Administration) because it actually transferred far too much legislative (law-making) powers from the legislative branch to the executive branch (president) without any clear guidelines or limitations on his power. In the same case, you and the Court further ruled that the Constitution only allows the national government to regulate *interstate* commerce (commerce among the states), but not commerce that remained inside a single state. Moreover, in the case *U.S. v. Butler*, you and the Court invalidated the AAA, ruling that agriculture is a local matter than should be left up to each individual state rather than being interfered with by the national government. You saw this as a violation of the powers reserved to the states under the Tenth Amendment.

In each case, where the Court has struck down New Deal acts, it has decided that the New Deal has overstepped its power in the delicately balanced separation-of-power system set up by the Founding Fathers in 1787 at the Constitutional Convention. Those Founding Fathers had sought to divide up the power among the executive, legislative, and judicial branches so that no one person or group of people could dominate or take over. Your court has repeatedly found that FDR’s measures have sucked power away from Congress (the legislative branch) and absorbed it into the executive branch. This, you say, has got to stop.

The nation’s attention centered on the separation-of-power issue in 1937, when President Roosevelt, greedy for power, proposed to Congress that the number of justices on the Court be raised from 9 to 15. You are absolutely outraged. No doubt, the Court has opposed the New Deal to stop the crazy “socialistic tendencies” of that madman in the White House. FDR’s “Court Packing Plan” would have given him power to appoint a new justice for every member over age 70 who would not retire--up to 15 total persons. Since many of Roosevelt’s opponents on the Court were older, this would have given him the power to outvote his enemies by letting him put more judges on the Court that agreed with him. In your mind, this is a blatant attempt by the executive branch to control the judicial branch. It seems that controlling two of the branches of government is not enough—he wants to control all three! That sounds like a dictator to me.

Reaction to Roosevelt’s scheme was loud and angry. Most Americans believed the President was wrong; the attempt was “too damned slick” and looked like the actions of a dictator trying to force the Supreme Court to do what he wanted. The bill was viewed by members of both political parties as an attempt to stack the court, and was opposed by many of the Democrats in FDR’s own party, including his own Vice President, John Nance Garner. It was a low point of the New Deal. When the “Court-Packing” bill failed to get bipartisan support in Congress, many breathed a sigh and said, “God bless the Supreme Court.”
Chief Justice Charles Evans Hughes

Prosecution Questions
1. Mr. Chief Justice, please explain to the jury the system of separation of powers and checks and balances as set up by the Constitution.
2. Why do you believe the system of separation of powers and checks and balances is so important?
3. Why is it so important that the judicial branch, the Supreme Court, is not controlled by the executive branch, the president?
4. Sir, exactly what did President Roosevelt do to endanger the separation of powers? In brief, how and why did he try to pack the Supreme Court with his supporters?
5. I understand that this so-called court packing scheme didn’t work out. How did the American people react to this illegal grab for power?

Defense Questions
1. Mr. Chief Justice, do you agree that the Great Depression is the greatest crisis ever to hit the U.S. in its history so far?
2. Sir, wasn’t President Roosevelt and his New Deal a heroic attempt to solve the effects of the Great Depression?
3. You have talked a great deal about the importance of maintaining an “independent judiciary.” What is that and why is it so important to you?
4. Weren’t you more concerned about an “independent judiciary” than you were about the welfare of all Americans?
5. Is it possible that when the Supreme Court ruled unconstitutional seven of nine New Deal programs between 1934 and 1937 that you hurt or damaged the effectiveness of the New Deal strategy? Or to put it another way, did human suffering continue because the Court, trying not to let FDR get his way, decided not to go along with the president?
6. Sir, are you aware that when the economy slumped again in 1937 that you had ruined the belief that FDR and his New Deal programs could do anything to help because you had ruled unconstitutional acts such as the National Recovery Administration and Agricultural Adjustment Act?

Characterization
- The entire class will enjoy the activity more if you really “get into” your role. Strive to dress and act appropriately during the trial, for what you wear and how you speak and move while you are a witness definitely can add to the trial’s reality.
- Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
- Try to find a dark robe—black would be ideal—you could borrow to wear during the trial
James Carter Wells

Background

You are James Carter Wells, forty-eight years of age and a family man: a father of six and a husband for twenty-six years. You are a witness for the prosecution.

Being an African American in a time when racism is accepted by mainstream society, you have often been the victim of verbal abuse and discrimination. In a time when America was suffering because of the Depression, you hoped that discrimination would not affect you when applying for relief—but you were wrong.

Before the Depression, you earned $60 a week on average as a metalworker making high quality utensils. You lost your job in July 1930 and in 1933 you found a new job which consisted of house painting and labor work at which you earned $40 a week. After working this job for several months, Franklin Delano Roosevelt passed several New Deal programs, including the WPA (Works Progress Administration), the Civilian Conservation Corps (CCC), and the Tennessee Valley Authority (TVA) which were supposed to put people to work on government construction programs. Unfortunately, the WPA’s projects took over the work that your boss’s business had been doing so your company went out of business. After several months without work, you got a job on a WPA construction project. Although you were angry and disappointed that your company was put out of business, you were hopeful that at least the New Deal would continue to allow you to work for a living at a fair wage. But soon your hopes would be crushed.

Unfortunately, you were given a job as a cement finisher, an occupation you knew nothing about. The New Deal did not assist with educating laborers in new skills, and your new WPA employers fired you for not being able to do your job, while others who were not doing any work kept their jobs. You noticed that all those men were Caucasian. The WPA then put you into a job you could “handle” as a crossing guard. You were furious as you became aware that the white men who were working on the same project earned $13 a week while minorities earned $7 a week.

You are incredibly disappointed that discrimination is all mixed up with the New Deal and that if “you aren’t a minority you can get better money.” The National Recovery Administration (NRA), CCC, and TVA are also discriminating against African Americans and paying them lower wages. And if the New Deal programs wouldn’t have intruded on your secure $40 a month job, you wouldn’t have had to rely on New Deal work in the first place. You don’t want a handout, you just want to earn a living through your own hard work and determination. But since FDR’s New Deal is basically putting private businesses out of operation and running the economy, you had no choice but to accept a government job. The more that you think about it, the more you see this New Deal as a dangerous movement away from capitalism and toward socialism. Do we want to become another communist Soviet Union? Hell no!

You are aware that FDR has barely improved civil rights for African Americans while in office. He has refused to approve a federal anti-lynching law or to put an end to the poll tax on voting, which have been two key goals of the civil rights movement. African American farmers have had it so bad that they have organized the Southern Tenant Farmers Union to protect the rights of tenant farmers and sharecroppers, both white and black.

You believed the New Deal and Roosevelt would help you recover. Nevertheless, it has done the complete opposite by slamming the doors in your face. You believe the New Deal has created false hopes and let you down. All it has done is increase your suffering. All they did was place you in worthless jobs where discrimination dominated.
James Carter Wells

Questions to Answer

Prosecution Questions
1. Mr. Wells, do you believe you were better off without the New Deal? Why?
2. Describe for the jury what the Works Progress Administration was.
3. Why do you think you were not provided with a stable job by the New Deal?
4. How were you treated when you had a job with the WPA?
5. Do you think that training in the job you were given was too much to ask for?
6. Did Mr. Roosevelt’s New Deal intrude on your plan to get you and your family out of poverty?

Defense Questions
1. Isn’t it true that the New Deal did give you work during a desperate time?
2. Isn’t some money better than no money? I mean, you didn’t know if your other job would last, right?
3. How can you blame the government if you are less educated than the other workers?
4. For sake of argument, let’s agree that discrimination did exist in New Deal programs. But FDR didn’t want that, he just couldn’t stop the existing racism. Is it really fair to expect FDR to be able to stop all discrimination by himself?

Characterization
• The entire class will enjoy the activity more if you really “get into” your role. Strive to dress and act appropriately during the trial, for what you wear and how you speak and move while you are a witness definitely can add to the trial’s reality.
• Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
• Come up with ideas of your own how to dress up in this role.
Louise “Ma” Kincaid

Background

You are Louise “Ma” Kincaid, a middle-aged woman of moderate means whose family in the early 1930s was forced into situations no other generation of Americans faced. The Crash of ’29 helped initiate unique economic conditions that led to the so-called Great Depression. You will testify in defense of Franklin Roosevelt’s New Deal.

Your husband Clem lost his job when the cycle of overproduction, deflated currency, low prices, and low wages hit most businesses. Unable to find work, your husband disappeared, shamed that he could no longer provide for his family. Solving nothing, his departure meant “hard times” for you and your 5 children. Food was hard and secure, but some of your most difficult decisions surrounded your actions to keep up the facade of “doing just fine” in the eyes of your equally struggling neighbors. Tricks like recycling razor blades, raiding garbage cans behind restaurants, and using cardboard pieces to replace worn-out socks and shoes were clever but at best were temporary.

Your oldest boy, Clem Jr., resorted to selling apples in New York City. He also wore a sign on his back offering to do anything for a meager wage. In ordinary times, it would have been a family embarrassment—but not in 1932, the worst year of all. In addition, your sister’s family of 6 moved in with you to help make ends meet. Her husband, an RCA executive, lost thousands in the stock market disaster and, personally humiliated and broke, jumped to his death from the 20th floor of his office building. This was your situation when FDR was inaugurated in March 1933 and immediately initiated the radical measures of the New Deal. The New Deal saved this republic, in your estimation.

Many critics never accepted the change of direction the New Deal brought during the Great Depression, but you and others who were caught in the spiral and were down and out could hardly be critical. Almost immediately, a new positive spirit permeated the country as Americans listened to the new president’s calm voice on the radio during his fireside chats. His 3R Program (Relief, Recovery, and Reform) was a positive step to combat the Great Depression, and most Americans were eager to support such legislation from Congress.

You and the large group in your house were almost immediately spared from starvation by the Federal Emergency Relief Administration (FERA) which provided direct money payments to needy Americans so they could buy food. The president had said: “We must act, for people now, not in the long run,” which you all knew was a dig at President Hoover’s lame attempt to give relief by funding businesses instead of feeding the hungry. Your oldest sons, Clem and Luke, went to work for the Works Progress Administration (WPA). They built schools, parks, and repaired roads for $15 a week. Not only did they bring in much needed income, but they felt good doing something of value for the community. Another of your sons got a job working for the Civilian Conservation Corps (CCC) planting thousands of trees in the Dust Bowl area to prevent further soil erosion.

You were never sure if life really got better. Yet, a spirit of optimism replaced defeatism in the country. You were pleased that the New Deal reforms improved the situation. Especially worthy of praise was the 1935 Social Security Act, passed to guarantee a pension for retired Americans, though the payroll deductions were involuntary.

Americans should praise FDR and his New Deal. Its programs injected a bit of unorthodoxy to salvage our precious free enterprise system, to say nothing of salvaging most of our generation’s self respect. You had to have been truly “down and out” to appreciate the titanic role played by the New Deal and its miraculous successes.
Louise “Ma” Kincaid

Defense Questions:
1. Mrs. Kincaid what were “hard times” like for you and your family?
2. What was the most difficult problem you faced?
3. Was your family able to cope?
4. What was the immediate reaction to President Roosevelt and his course of action?
5. Did the New Deal save America?
6. What specific New Deal measures seemed to reduce human misery and unemployment?

Prosecution Questions
1. While we can all appreciate your struggles, Ms. Kincaid, and you may have gotten some short-term relief through the New Deal, many Americans believe that the long-range results of Roosevelt’s New Deal socialism, especially the excessive federal government debt it has created, have made the New Deal more harmful than beneficial. Are you unaware of the financial burden the New Deal has placed on our country?
2. Mrs. Kincaid, wouldn’t most of your difficulties have gone away in time without the New Deal and Roosevelt’s poorly thought out remedies?
3. Were you aware that much of your sons’ wages came from worthless projects and agencies where a man could be paid just for leaning on a shovel?
4. Is it not a valid concern that these impulsive New Deal programs might provide a temporary band-aid for the economy, but at the cost of starting a cancer that will kill the very values of freedom and hard work that have made our country great?

Characterization
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• Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
• To add some drama, think of some flourishes to enhance your character’s presentation.
Millard C. Smithers

Background

You are Millard C. Smithers, a 19-year-old man from New York City. You are quite anxious to testify for the defense. After wandering the streets for nearly two years without gainful employment, you finally found a job working for the New Deal’s Civilian Conservation Corps (CCC).

This agency, which was created in the first Hundred Days of President Franklin Roosevelt’s administration, was perhaps the most popular of all so-called alphabet soup agencies. FDR was not interested in providing welfare. He was determined to preserve the pride of American workers in their own ability to earn a living, so he concentrated on creating jobs. The CCC provided employment for young men to work, largely in forested areas of the United States. The agency was called Roosevelt’s “Tree Army” or New Deal Soil Soldiers. Roosevelt spoke of enlisting men in a “peacetime army” to send them into battle against soil erosion and the destruction of the nation’s resources. It is estimated that more than three million men who might have been driven into criminal activity and habits after aimlessly stagnating on city streets or in neighborhood pool halls and bars benefited from being in the CCC. Their families greatly benefited too, as twenty five of their $30 per month wage was sent home to their families.

Most men like yourself will never forget their years in the CCC. Perhaps for the first time, city boys were put into a beautiful mountainous region with clear, fresh air. They were given plenty of good food, clothes, and a clean bunk bed. At the time of entry, 70% of enrollees were malnourished and poorly clothed so just being able to eat well was a huge benefit. CCC enrollees mingled with other men whose friendship, in many cases led to life-long connections. The CCC camps provided free medical help as well as religious and counseling assistance if needed.

As a CCC soil soldier, you awoke at 5 a.m., ate a hearty breakfast, attended morning classes, and then went off to the fields, or up into the mountains, to work at digging firebreaks, repairing and cleaning trails, building shelters, draining swamps, controlling flooded areas, and fighting fires. Other important tasks included building roads, installing telephone lines, eliminating mosquito infestations, and most importantly, planting trees for the beauty and use of future generations. During the Great Depression, CCC workers planted nearly 3 billion trees, which helped stop the soil erosion that had led to the Dust Bowl, constructed more than 800 parks nationwide and upgraded most state parks.

The CCC’s voluntary education program helped enrollees improve themselves and become more employable. Classes in reading, writing, spelling, and math helped many who had only completed a sixth grade education or less. The CCC educational program gave some of the respondents a chance to complete high school. It motivated others to continue with college work.

The whole experience was a vigorous and healthful life for you, a time you wouldn’t trade for anything. Through hard work you earned a paycheck and self-respect, improved your skills which made you more employable in the future, provided for your family and contributed something to society. Who knows what kind of life lay ahead had you been left to stagnate in New York City, jobless, dependent, and restless. For sure, you have FDR and the creative New Deal to thank for your, and the country’s, good fortune!
Millard Smithers

Questions to Answer

Prosecution Questions
1. Millard, did you ever feel like you’d been forced or drafted into the Civilian Conservation Corps? Did you have a choice?
2. Sir, were these tasks you performed in the mountains really valuable or worthwhile jobs? They sound like silly “make-work” jobs so typical of New Deal programs.
3. Thirty dollars a month for all that hard labor—I mean I wouldn’t do all that slave labor for a mere $30 a month!
4. How did that make you feel, that the government controlled how much of the money you made that you could keep for yourself? Does that not concern you that the government is controlling your life to that degree?

Defense Questions
1. Millard, what was life like for you while you lived in New York City during 1930-1933?
2. What is the Civilian Conservation Corps (CCC) and please describe in detail what kinds of tasks you did while employed by the CCC?
3. In what ways was it a positive experience for you in the CCC?
4. What would you say to President Roosevelt and the New Deal if he were facing you today?
5. Millard, speculate what your life would have been like in New York had there been no CCC.

Characterization
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- Come up with ideas of your own to make your presentation more interesting and memorable.
Clarence Richmond

Background

You are Clarence Richmond, a small-time farmer from Tennessee. In 1933 you were trying to eke out an existence on 60-acre farm when life for you and other farmers like you changed. The New Deal Congress created the Tennessee Valley Authority (TVA) and initiated a huge public works program to produce electricity, control flooding, and generally upgrade the economy of your beloved state, where the Tennessee River runs through a very poor region. Previously, private companies had run the dams and several electric plants in this region, but it seemed that these companies charged excessive rates for what was now deemed a necessary service—electric power.

The New Deal poured millions of dollars and tons of concrete into the project because until 1933 the region was a disaster. The valley’s forests had been stripped, erosion had reached frightening proportions, and the Tennessee River’s tributaries were filling with silt, which created a flood danger to low-lying farms and cities. Furthermore, the people who lived along the rivers were some of the poorest in the nation, so poor that unemployment meant near starvation and so primitive that most of the farms had no electricity! So it was there that the architects of the New Deal eagerly saw a perfect laboratory for economic planning.

The TVA was determined to discover precisely how much the production and distribution of electricity cost, so that a “yardstick” could be set up to test the fairness of rates charged by private companies in most similar industries. What followed were many accusations by utility corporations (electricity producing companies) that the federal government, through TVA, was trying to compete with private industries. Thus, it was labeled clearly socialistic—or “creeping socialism in concrete.” Critics further claimed that private companies could not compete fairly with the federal government because “it was destroying the initiative that has made this country great.” Another critic put it this way: “Business and politics don’t mix.”

Supporters of the New Deal’s TVA enterprise looked right past the “wedge of socialism” charge, primarily because TVA worked. It did provide low-cost electric power to Tennessee Valley residents through dams on the river. Moreover, TVA successfully established projects to control employment in the region. Employment rates soared during a time when the jobless rates elsewhere were dismal. Last, rivers of the area ran blue instead of brown, and a once poverty-cursed land was transformed into a comparatively flourishing state.

Critics of TVA—mostly wealthy businessmen—abounded, but for the wrong reasons. Socialistic or not, the TVA works. Poverty has been lessened, and an entire region has been saved. We must praise a farsighted President Franklin Roosevelt and his progressive New Deal for TVA’s success. On a personal level, your standard of living has been significantly raised. You no longer have to live in fear of the flooding of your farm every year. You are able to have inexpensive electricity in your home which saves you a lot of money. Your brother and nephew have gotten jobs working on building and maintenance with the TVA which has saved the family. And access to reliable irrigation water has saved you and many farmers in your area from having to give up farming. From your perspective, the TVA has been a miracle!
Clarence T. Richmond

Questions to Answer

Defense Questions
1. Mr. Richmond, what was life like for you and others before the New Deal got involved in the Tennessee Valley in 1933?
2. Just what exactly did the Tennessee Valley Authority (TVA) do?
3. What were the three main goals of the TVA?
4. Sir, there were many critics of TVA. What were their accusations, and how would you respond to them?
5. So, how successful was TVA and how did farmers like you do because of it?

Prosecution Questions
1. Farmer Richmond, isn’t the definition of socialism an economic system in which the federal government takes over and controls industries that were once run by private individuals?
2. Please refresh the memory of the jury what exactly the New Deal program called the Tennessee Valley did?
3. Isn’t it clear that the New Deal’s Tennessee Valley Authority (TVA) project was socialistic in that private industry couldn’t compete with TVA in that region?
4. You saw that it was easy to look past the label of “socialism” because TVA worked to reduce poverty and to efficiently run the dams on the Tennessee River. But Mr. Richmond, don’t you think you are sacrificing future freedom for temporary security? Isn’t this a dangerous policy?

Characterization
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- Come up with ideas on your own to make your presentation more interesting and memorable.
President Franklin Roosevelt

Background

You are Franklin Delano Roosevelt, the 32nd president of the United States. Charged, for better or worse, with changing the direction of America in the 1930s, you face trial for your efforts. Charges and countercharges have tried to make you look like a dictator, a spendthrift, and a power-hungry politician, exploiting the unique times to advance yourself in history. You feel it’s time to set the record straight.

First, critics have said that you’re an extremely powerful president, who in 1933 was given extraordinary powers by the Congress. But it was a necessity. Why? Because when the New Deal began in March 1933, factories were closed, banks were failing everyday, farmers could find no markets to sell their products at a decent price, and workers could find no jobs. Despair and pessimism were rampant! Clearly by this year—1939—these conditions have been reversed. Working with Congress, the New Deal administration now can point out the following achievements: Factories have stayed open, banks are stable, farmers have survived, and workers across the length and breadth of this land are employed on important projects, like building new schools and public buildings through the Works Progress Administration (WPA) and protecting the environment by reforesting the nation as part of the Civilian Conservation Corps (CCC). You have even managed to set up and provide security for the aged called Social Security. And you have created the nation’s first minimum wage. Could a weak and do-nothing administration have done all this?

You have been accused of bankrupting our nation to the detriment of future generations. Conditions were such that dollars had to be pumped into a stagnant economy. Moreover, they were well spent. Look around you. People survived the worst catastrophe in United States history. Your philosophy is clear on this issue: If it takes money to turn Americans from despair to happiness, so be it. Further, the millions pumped into the economy went directly to people, not to banks, or railroads, or into the pockets of the filthy rich.

Third, there are those who say that the New Deal destroyed the American character and the free enterprise system. Balderdash! Is a man hurt if his government provides him with constructive work? Is a man’s character hurt if his government transforms him from a starving wretch to a self-respected worker? Is a man’s character hurt if his government hires him to do a job that needs to be done, rather than sending him out to search for a non-existent job? Not only has the New Deal saved the free enterprise system; in fact, it has greatly strengthened it by reforming outdated and ineffective laws which caused the Great Depression and the human misery which resulted. For example, the newly created Securities & Exchange Commission (SEC) has fixed some of the flaws in how the stock market is run, and the Federal Deposit Insurance Corporation (FDIC), has provided extra safety for American citizens by insuring their bank deposits in case of bank failures.

Interestingly, critics have been free with labels like fascism, socialism, and communism. Yet, obviously everything the New Deal has done is in the American tradition of adapting to one’s situation and dealing with problems by reforming and improving society. In that sense, your administration is not radical at all, it is merely an extension of reform movements like those of the 1840s and the early 1900s Progressive Era.

In summary, the New Deal has been fighting the Great Depression with all the weapons we could find. Unorthodox times called for unorthodox methods. You should be proud of what the New Deal has done to preserve precious traditions and thus to save an entire generation’s self-respect.
President Franklin Roosevelt

Questions to Answer

Defense Questions
1. Mr. President, what a distinguished honor it is to have you in our courtroom today. Sir, are you upset at all the charges filed against you and the New Deal?
2. Sir, what can you say to critics who say that you have too much power?
3. Has the New Deal, in your opinion, spent the country into permanent debt and bankruptcy?
4. Mr. President, has the New Deal destroyed the American character and the free enterprise system?

Prosecution Questions
1. Sir, can you honestly say all these expensive “alphabet soup” agencies were absolutely necessary?
2. Mr. President, these alphabet-soup agencies like the CCC, WPA, and TVA are costing millions of dollars, in a time when we don’t have any money. Basically you are running up huge amounts of debt. Why are you being so fiscally irresponsible?
3. Mr. President, in 1937 you tried to force judges who disagreed with you to retire from the U.S. Supreme Court so you could pack the court with your own supporters. In effect, you tried to eliminate one branch of government and take more power for the executive branch. This is the behavior of a dictator. Why do you seem to stamp on the Constitution of the United States?
4. Please be honest Mr. President: does it concern you at all that in trying to help Americans with your programs you are creating a culture where people expect too much from the federal government and get lazy?

Characterization
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- Essentially you students are teaching the class during this confrontation. Have fun, but be careful not to make light of a serious topic.
- Obviously, you should be dressed in a fine suit and tie and be sitting in a wheelchair. Ask the school nurse to see if you can borrow a wheelchair.
New Deal on Trial: History and Background (pg. 6 of this packet)

<table>
<thead>
<tr>
<th>Question</th>
<th>Response</th>
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<tbody>
<tr>
<td>What were conditions like in the U.S. before the New Deal? (3-4 sentences)</td>
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<tr>
<td>What exactly was the New Deal? (3-4 sentences)</td>
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<tr>
<td>What were some of the main programs of the New Deal and what did they do? (3-4 sentences)</td>
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<tr>
<td>For what reasons did many people not like the New Deal? (4-6 sentences)</td>
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</table>
**Witness Summary: Louise “Ma” Kincaid**

1. How did the Great Depression affect this witness’s life? (3+ sentences)

2. How did the New Deal positively impact this person? Why exactly does this witness love the New Deal? (5+ sentences)

3. What main arguments do you predict the other side will try to bring up through this witness? How will you deal with those arguments? (5+ sentences)
**Witness Summary: Millard Smithers**

1. How did the Great Depression affect this witness’s life? (3+ sentences)

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## Witness Summary: Clarence Richmond

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**Witness Summary: FDR**

1. What was FDR’s general philosophy behind the New Deal? (2+ sentences)

2. What would FDR argue were his biggest successes? Why do you think so? (3+ sentences)

3. FDR is your most important witness because he is the one who has been directly charged in this trial, so you will need to question him effectively. How will you go after him on the charge that “during the New Deal [he] acquired excessive power that made him a virtual dictator?” (4+ sentences)

4. You are accusing FDR of destroying the capitalist economic system in the U.S. and turning it into a socialist country. What specifics will you use to go after him on this charge? (4+ sentences)

5. What arguments will you present on the charge that FDR gave false hope to millions during the Great Depression? (3+ sentences)
## Witness Summary: Herbert Hoover

1. What were Hoover’s ideas about government involvement/intrusion into people’s lives? (3+ sentences)

2. What actions did Hoover take to fight the Great Depression? (3+ sentences)

3. What precisely is socialism? In what ways does Hoover think that FDR and the New Deal have turned the U.S. into a socialist country? Students often tune out when talking about economic systems because they don’t really understand it all that well. How can you get Hoover’s ideas across without losing the jury? (5+ sentences)

4. What other criticisms of FDR and the New Deal does Hoover have that can support your side of the case? (4+ sentences)

5. What main arguments do you predict the other side will try to bring up when cross-examining this witness? How will you coach your witness to defend against those arguments? (5+ sentences)
**Witness Summary: Robert Taylor Green**

1. How did the Great Depression affect this witness’s life? (3+ sentences)

2. How did the New Deal negatively impact this person? Why exactly does this witness hate the New Deal? (5+ sentences)

3. What are three or more main arguments/assertions that this witness can make during the trial to support your side of the case? (5+ sentences)

4. What main arguments do you predict the other side will try to bring up when cross-examining this witness? How will you coach your witness to defend against those arguments? (5+ sentences)
**Witness Summary: Charles Evans Hughes**

—This witness’s arguments are more political and abstract than some of the others. Try very hard to simplify the concepts so that they are digestible for the class and so that you don’t lose the jury.

1. How did Chief Justice Hughes and the Supreme Court rule in the *Schechter Poultry* case (involving the NRA) and what were their reasons for ruling as they did? (3+ sentences)

2. How did Hughes and the Supreme Court rule in the *U.S. v. Butler* case (involving the AAA), and what were their reasons for ruling as they did? (3+ sentences)

3. What was FDR’s court packing plan about? How did it interfere with the separation of powers? (4+ sentences)

4. What was the reaction to the court packing plan? (3+ sentences)

4. What main arguments do you predict the other side will try to bring up when cross-examining this witness? How will you coach your witness to defend against those arguments? (5+ sentences)
## Witness Summary: James Carter Wells

1. How did the Great Depression affect this witness’s life? (3+ sentences)

2. How did the New Deal negatively impact this person? Why exactly does this witness hate the New Deal? (5+ sentences)

3. What are three or more main arguments/assertions that this witness can make during the trial to support your side of the case? (4+ sentences)

4. What main arguments do you predict the other side will try to bring up when cross-examining this witness? How will you coach your witness to defend against those arguments? (5+ sentences)
Reinforcing Background Information in Preparation for the Trial from the Textbook Chapter on Franklin Delano Roosevelt and the New Deal

- For each of the following important topics, identify three important additional facts to know about the topic:

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<tr>
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