
**Moot Courts and Mock Trials
in North American Legal Education:
An Appraisal, Source Book
and Annotated Bibliography**

**Submitted to Dr. B. Davis,
Saint Mary's University Faculty of Education
in partial fulfillment of
the Degree of Master of Arts in Education.**

**Submitted by
Kenneth Thomas Langille, 1987**

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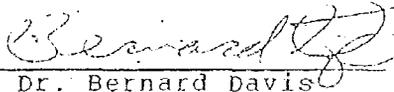
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MOOT COURTS AND MOCK TRIALS IN
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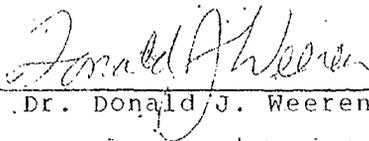
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INTRODUCTION

"Play is the very essence of discovery."

- Marshall McLuhan
(Adams, 1973: vi)

This case study investigates the use of moot courts and mock trials as educational tools in North American classrooms during the past fifteen years.

As yet, no book has been devoted solely to the topic of moot courts and mock trials, leaving a serious void for educators. Although many of the references used in this study contain extensive background and procedural information, none have dealt with this topic "as a whole".

This case study is a general examination of moot court and mock trial, defining terms, tracing their historical development, citing their benefits and their problems, detailing their usage in both Canadian and American classrooms and offering recommendations for the design of a working educational tool. This case study provides the reader with direct access to information contained in the works of the more than one hundred scholars who have written on the subject during the past decade.

The case study is divided into five chapters. Excerpts from more than one hundred and eighty articles, books and unpublished works are arranged in an orderly progression, providing the reader with factual primary source materials for personal examination.

Chapter One examines the educational concepts of simulation, game and role-play. These terms are defined in relation to moot courts and mock trials. A history of these innovations is provided. Contemporary research into their suitability as a classroom tool is explored, and the effectiveness of simulation games using role-play is compared with that of the traditional lecture-discussion method.

Chapter Two focuses on the usage of moot courts and mock trials in United States classrooms over the past two decades. It is in the United States that the bulk of the developmental research on moot courts and mock trials has been carried out. The author examines the use of these activities in law and in social studies courses, where moot courts and mock trials have received the most widespread use. Use of these activities in other educational disciplines is also explored.

Chapter Three looks at the use of moot courts and mock trials in Canada in the last ten years. In this country, these activities have been confined to law schools, with very limited use in the regular classroom. Only in the past five years have Canada's public schools begun to use these activities on a more widespread basis. Much of the Canadian experience seems to be a replication of the American models.

Chapter Four is a sampling of materials which have been successfully used in Canadian and American classrooms. This section contains detailed extracts from articles and research documents dealing with tested mock trial and moot court procedures, evaluation tools and other legal simulations. The chapter concludes with an outline of a law program, designed by the author.

Following the case study bibliography, there is an annotated bibliography of all of the materials examined by the author during the preparation of this document. This section provides a useful research tool for the educator intending to use this form of activity in his or her classroom.

CHAPTER ONE

Moot courts and mock trials: simulation games using role-play

When the case is all over, the jury'll pitch the testimony out iv the window, an consider three questions: Did Lootgert look as though he'd kill his wife? Did his wife look as though she ought to be kill? Isn't it time we wint to supper?

- Finley Peter Dunne
(Moulton, 1966: 89)

Moot courts and mock trials have been used as educational tools in North American law school classrooms for more than two centuries. Yet it has only been during the past three decades that these activities have begun to find a place in the public schools. In the last ten years, major strides have been made in developing them as effective teaching tools in public school classrooms, prompting educational researchers to begin taking note of these "time-tested" simulation games.

Over the past fifteen years, more than one hundred and fifty articles and books have been written on these forms of simulation games using role-play. Researchers such as Stådslev (1969) and Beatty et. al. (1985) have apparently cleared up the definition problem, while others, such as Bryan (1983) and The Harvard Law School Board of Student Advisors (1976), have developed procedural processes which are now being used throughout North America. Attention has also been directed toward developing other simulation games, which appear to be just as effective as moot courts and mock trials; these include "legal firm simulations" (Hollander, 1978) and Pro Se Courts (Gallagher, 1973). Bryan (1983) and Germain (1973), meanwhile, have provided the basis for an instrument for evaluating student progress during simulation games.

Before exploring the history, uses and value of these teaching techniques, it seems worthwhile to examine the backgrounds of the educational concepts of simulation, game and role-play. A clear understanding of these words is critical in order to put this topic into proper perspective. Each of these words has been given a wide range of definitions, some of them complex and some simplistic. However, the following seem to be the most widely accepted:

A game is any contest among players operating under rules for an objective such as winning, victory, or payoff. A simulation is an ongoing process representing a real situation of some sort. A simulation game is an exercise that possesses the essential characteristics of both games (competition and rules) and simulation (ongoing representation of reality). Role-playing is a form of simulation. (Beatty et. al., 1985: 568-569)

Ronald Stadslev, in his thesis, "A Comparative Study of Gaming and the Lecture Discussion Method", suggests a more complex definition:

Simulation Games - Involves the use of role-playing by the actors during the operation of a comparative complex symbolic model of an actual or of a hypothetical process instilled into game form. ... It will give you a selective representation of reality, containing only elements of reality that the designer deems relevant to his purpose. (Stadslev, 1969: 8)

Stadslev's definition is similar to that of Sarene Boocock, one of the pioneers in American gaming research. Boocock agrees with Stadslev that there is a clear separation of simulation games and role-play. One can operate without, or in harmony with, the other. The success of a simulation game activity is not dependent upon role-play. Role-play, Stadslev and Boocock feel, is a "means to an end".

... (1) It should be understood that role-playing has its own theoretical history and is not the same thing as playing a game. ... In fact, for many, the role-playing - and subsequent feelings of familiarity and empathy they gain with respect to their roles - is the most rewarding aspect of the game experience. Thus, it is important to make clear that in most of these games skillful role-play is not essential to winning the game. On the contrary, too much concentration on the fine points of one's game role may divert attention from the kind of rational, rigorous analysis of the simulated situation which is usually necessary to planning intelligent game strategies. (Boocock, 1968: 58-59)

Boocock further clarifies this:

There is here a crucial difference between simulation gaming and role-play... In both, an artificial role is prescribed for the participant, but in entirely different contexts.

In role-play, the primary purpose is to make the player empathize with the goals and constraints of the role; the worker playing the role of foreman is to learn what a foreman wants, to

understand his motivation and the emotions aroused in response to workers' behavior.

No such empathy is needed in the game: the goals of other players are explicitly described in the rules and the motivations simple - to achieve these imposed goals and thus to succeed in the game. On the other hand, the player must understand the structure of relations - and how this relationship is conditioned by the strategies of other roles. ... Interests and motivations are given in the game and are basically simple: the way to satisfy these interests is, because of the structure of interdependencies, complex.

...[T]he purpose of role-play is to highlight the importance of expressive behavior; that the actor chooses a course of action not because of its pay-off value in the interaction, but because its very performance is satisfying - e.g., releasing his anger.

In the game such behavior is usually self-defeating: if the player wants to succeed, the only criterion for action is its effect on his score. Thus, the game focuses attention on the instrumental aspects of behavior. (Boocock, 1968: 96-97)

Jonathon C. McLendon suggests that role-play in simulation games, as described by Boocock, fits within his notion of the use of sociodrama in social studies. He agrees with Boocock that role-play may be part of simulation games.

Sociodrama helps students to empathize with people involved in events and situations that are too remote for students to witness firsthand. It provides the basis for critical analysis by a class of an enactment just witnessed. If sociodrama is entered into sincerely and wholeheartedly by students, and if they have studied intensively material appropriate to the situations to be enacted, it provides a means of review or application of the material to a partly imagined but real-life situation.

... Certainly, students will need to study thoroughly a process, event, or the people involved in a situation if they are to be prepared to present sociodrama effectively. (McLendon, 1967: 430).

A final point, applicable to legal simulation games, is the use of "animated case studies". J.N. Robinson (1978) believes that games can be a method of bringing case studies to life. Many educators feel that by "animating" an existing case study, students are able to develop a myriad of educational skills similar to those developed in simulation games.

The difference between a game and a case study is that in a case study each player (or group of players) works in isolation, while in a game each player must take account of other players' actions; if only insofar as other players set targets for him to beat. (Robinson, 1978: 5-6)

Researchers such as Rick Craig have examined, and consequently modified, all of these definitions so that they can be adapted to moot courts and mock trials.

Mock Trials and constitutional hearings are examples of 'theatre games', one of the disciplines in which simulations can be used. Three types of activities can be incorporated into these theatre games. The first of these is basic rôle-playing wherein students assume different personalities or perform activities designed to acquire specific skills; for example acting as a judge, court clerk, etc.

The second of these activities is that of the socio-drama, more complex than the basic rôle-play. Students assume rôles which are utilized to compare or devise different solutions to a problem.

The third activity is gaming, which is an addition to socio-drama of an element demanding the development of choices or strategies. Those situations involve outcomes which are affected by the decision of the participants and often involve conflict. (Craig, 1980: 72-73)

Where did the concept of simulation games and their adaptation to moot courts and mock trials stem from? Simulation games using rôle-play have had a long history, dating back to early man.

Simulation is certainly not a new device. Its use probably precedes recorded history. In a very broad sense of the term, it can be argued that man has been simulating objects ever since he first began to draw and carve representations of objects on tree trunks and on the stone walls of cliffs and caves. In this very broad meaning of the word, any construction of a model, whether symbolic (pictorial, verbal, mathematical) or physical might be termed simulation. In this sense the classical dialogues of Plato, the 15th century art of Leonardo Da Vinci and the abstract art of the twentieth century might all be termed simulation, inasmuch as they are attempts to portray or reproduce by means of words, stone or canvas their authors' conception of various aspects of human life or physical objects (Guetzkow, 1962: 2-3)

Simulation games using a role-play technique have been sporadically used in legal education over the past four centuries. These games began with the use of a moot court format, in which both parties in a legal dispute presented their cases to either a judge or a panel of judges. The first recorded use of moot court was in England during the mid 1500s. In his book, The Moot Court of Gray's Inn, Lord Justice J.R. Atkin traces the first steps in "mooting":

The practice of Mooting, as is well known, at one time was an essential part of the legal training necessary for call to the Bar. About the year 1540 a report was prepared for Henry VIII by Nicholas Bacon, Thomas Denton and Robert Cary, on the constitution of the Inns of Court and the best form and order of study practised therein. It is probable therefore that the following passage of the report is an accurate description of the practice at Gray's Inn of holding moots, at many of which Bacon himself must have taken part:

The ordering and fashion of Mooting in these Vacations every night after supper, and every Fasting-day immediately after six of the Clock, boyer ended (Festival-dayes and their evens onely excepted) the Reader, with two Benchers, or one at the least, cometh into the Hall to the Cuboard, and there most commonly one of the Utter-Barresters propoundeth unto them some doubtful Case, the which every of the Benchers in their ancienties argue, and last of all he that moved; this

done, the Readers and Benchers sit down on the bench in the end of the Hall, whereof they take their name, and on a forme toward the midst of the Hall sitteth down two Inner-Barresters. (All the residue of learners are called Inner-Barresters, which are the youngest men, that for lack of learning, and continuance, are not able to argue and reason in these Motes) and on the other side of them on the same forme, two Utter-Barresters (Called Utter-Barresters, for that they, when they argue the said Motes, they sit uttermost on the formes, which they call the Barr.) and the Inner-Barresters doe in French openly declare unto the Benchers, (even as the Sergeants doe at the barr in the King's Court, to the Judges) some kinde of Action, the one being as it were retained with the Plaintiff in the Action, and the other with the Defendant, after which things done, the Utter-Barresters argue such questions as be disputable within the Case (as there must be alwayes one at the least), and this ended, the Benchers doe likewise declare their opinions, how they think the Law to be in the same questions, and this manner of exercise of Moting, is daily used, during the said Vacations.

This is alwayes observed amongst them, that in all their open disputations, the youngest of continuance argueth first, whether he be Inner-Barrester, or Utter-Barrester, or Bencher, according to the forme used amongst the Judges and Serjeants.

And also that at their Motes, the Inner-Barresters and Utter-Barresters doe plead and reason in French, and the Benchers in English and at their reading, the Readers Cases are put in English, and so argued unto.

So far as Gray's Inn is concerned the Hall above mentioned is the predecessor of the present Hall which was rebuilt about 1556. The practice of Mooting was neglected after the Restoration, and in the eighteenth century ceased to play any part in legal training. Spasmodic attempts to revive it had been made at Gray's Inn by individual Readers, but without success. In 1875, His Honour Judge J.A. Russell, Q.C., a Bencher at the Inn, founded the present Gray's Inn Moot Society, under whose auspices moots have been held every term to the present time, the period of war intervening. (Atkin, 1924: v-vi)

Moot courts have evolved significantly since their inception at Gray's Inn. Today's moots bear some similarity to those of four hundred years ago, but they are considerably more complex. Unlike their predecessors, whose outcome depended more upon rhetoric and quick thinking than upon precedent and points of law, modern moots centre around an appellate system. Today, a moot court lawyer presents his or her case, often from a prepared, well-researched brief, before a panel of judges which is usually

made up of law teachers or senior law students. Mooting has long been regarded by many law teachers as the height of debating.

However, moots have their limitations. Law students, for instance, do not get experience in cross-examination, courtroom pressures or jury presentation. As the North American justice system evolved during the 1800s and early 1900s, it became apparent to some law teachers that skill development in these areas was necessary. The procedures used in the English moot courts were modified, resulting in what have become known as mock trials. Research suggests that these are North American phenomena, which seemed to parallel the growth of gaming techniques in both the military and business during and after the First World War. American researchers have traced the first recorded use of mock trials as an educational technique to the mid-1900s.

James McBath attributes the development of the mock-trial debate format in 1939 to Warren A. Guthrie of Western Reserve University. Apparently Guthrie's original concept was an attempt to find a debate format that would retain audience interest by involving all class members and utilizing the national debate proposition. (Thorpe and Crouse, 1982, 3)

While Guthrie was developing his mock trial concept at Western Reserve, new developments in classroom gaming technology were underway elsewhere. Guthrie's model for mock trial seems to be the start of the process which resulted in the use of mock trials today. However, Boocock notes that the use of role-play within the structure of simulation games, as a teaching tool, stems from the work undertaken by Moreno:

The type of role-playing characteristic of simulation games owes much to the technique of psychodrama, as

developed during the 1930s by Moreno and his followers. From his research in training schools for delinquent girls, Moreno concluded that experiences of girls in this small, limited social world did not prepare them for many of the situations they would face outside the institution. Starting with simple simulated situations, in which subjects acted out their own personal problems, role-playing sessions were extended in scope and complexity to give the members of the group a chance to act in a variety of functions and roles and enable them to release and shape their interests. (Boocock, 1968: 58-59)

In view of the innovations suggested by Guthrie and the research of Moreno, it can be argued that the foundations for mock trials in North America were well established by 1940. There is a clear distinction between the mock trial designed by Guthrie and the moot court developed at Gray's Inn. The mock trial is a more realistic enactment of a North American trial, while the moot court tends to be of an appellate nature, more suitable for settling a constitutional issue or a legal principle. In essence, the mock trial has become a sociodrama. Although the format of a mock trial varies from school to school, Eugene R. Moutton provides us with a good example of the most commonly used design:

Each of the participants in the mock trial plays the role of a participant in an actual court trial. ... Each side may call three witnesses, each of whom plays the role of a recognized authority; the witnesses must limit their testimony to recorded facts or the actual written opinions of those whom they represent. The court is opened by a bailiff [also represented by a student] who swears in witnesses and acts as a timekeeper. The jury is made up of twelve persons selected from the audience. (Moutton, 1966: 1856)

Both moot courts and mock trials slowly began to be accepted in North American law schools, from the 1940s onward, as innovative, practical and

exciting teaching tools. As they developed, similar gaming techniques were creeping into public school and university classrooms.

The application of simulation and gaming techniques to education and training is a comparatively recent development. The first field of application was military training at the end of the eighteenth century. Then business management training made use of games for the development of decision-making skills during the mid-1950s. Since the early 1960s, the use of the technique has spread to secondary and tertiary education. (Beatty et. al. 1985: 568-569)

Mock trials and moot courts are as common today in law schools and in many public school classrooms as are copies of the Constitution. Although many moot courts are still designed around the Gray's Inn model, each year brings with it new research and subsequent modifications, resulting in a very old teaching tool becoming a modern teaching methodology.

In the past, both moot courts and mock trials were seen as extra-curricular activities. Today, law teachers view these activities as vehicles for trial advocacy training, and most law schools now offer academic credits to all participants.

During the past two decades, mock trials and moot courts have emerged from the law school, to become a regular classroom technique in more than twenty American states. Members of American Bar Association (ABA) have been developing kits for classroom use. Law schools, meanwhile, have been exchanging ideas and setting goals for more effective moot and mock activities, thus making their programs more relevant to the real world.

The overall objective of the Trial Advocacy Program is to provide each student an opportunity to participate - to do - to

observe, to study and ultimately to instill an appreciation of the process of preparing and trying a lawsuit. Students leave the Program with the increased self confidence of having prepared and tried a case from beginning to end before a presiding judge but with the clear recognition that after graduation they will need to devote considerable time and energy to the continual process of doing, observing and studying required to obtain a working mastery of the art of advocacy. (Graham, 1978: 591)

Along with the development of simulation games using role-play, has come increased research testing the usefulness of these activities in the classroom. Since the early 1960s, extensive literature has been written on the topic, much of which has concentrated on the usefulness of mock trials and moot courts in education. As a result of more than two decades of research, a number of benefits of simulation games using role-play have come to light. Ten of the benefits as supported by the research are:

1. PROBLEM SOLVING SKILL DEVELOPMENT:

Problem-solving and decision skills are learned as well or better through simulation. (Chartier, 1973: 6)

Education games incorporate the human aspects of analytic problem-solving. In conventional school situations, the solution to problems is taught on an abstract, impersonal basis. ... The intellectual and the social skills needed to solve adult socioeconomic problems are developed in concert, in educational games, as they must be applied in concert in adult life. (Boocock, 1968: 80-81)

Contained within each role-play activity was a basic linear problem-solving model. One of the basic goals of the materials was to teach students the following basic series of steps in solving a problem: (1) the identification of the key issue; (2) the raising of important questions related to the issues; (3) the seeking of information related to the important questions; (4) the exploration of alternatives and consequences;

and (5) the selection of a final decision and the reasons for its selection. (Glenn et. al., 1982: 202)

Simulation games seem to be effective tools for teaching students decision-making and problem-solving skills. ... Thus far the research seems to indicate that students learn these skills as well or better through simulation than any other teaching method. (Chartier, 1973:14)

Education games incorporate the human aspects of analytic problem-solving. In conventional school situations, the solution to problems is taught on an abstract, impersonal basis. (Boocock, 1968: 80)

2. APPRECIATION OF HEALTHY COMPETITION:

In educational games, a player needs not only to calculate his best moves, but he needs to persuade his teammates of the effectiveness of these moves. Student players learn loyalty and the decent limits of rivalry. (Boocock, 1968: 81)

Competition allows participants to commit themselves wholeheartedly to the work of the exercise. (Beatty et. al., 1985: 569)

Simulation games appear to teach winning strategies as well as the knowledge of those strategies. (Chartier, 1973: 6)

Here winning is not simply a matter of luck or chance, rather it is associated with sound decisions, good judgement, and effective strategy. (Coble and Hounshell, 1982: 272)

3. MOTIVATION OF STUDENTS:

The clearest advantage of educational gaming is increased student motivation. Particularly where student motivation may be very low because of sociocultural factors, and where students find much of their curriculum irrelevant to their own life experiences, educational games can make previously uninteresting material fascinating. (Boocock, 1968: 81)

Student involvement is usually extremely high in games, most participants find games and simulations extremely enjoyable. (Beatty et. al., 1985: 569)

Games motivate students because of the active participation in the learning process. (Coble and Hounshell, 1982: 270)

The research findings in simulation and role-play support the claims of high student motivation and interest. (Glenn et. al., 1982: 199-200)

Simulation games can act as a motivational device. (Craig, 1980: 72-73)

Probably the greatest advantage of learning through games, and one which alone would justify their use, is the enthusiasm which participants develop. (Katsh and Katsh, 1973: 490)

As a device for motivating students, simulation games seem to be exceptionally effective. (Chartier, 1973: 13)

4. COGNITIVE LEARNING:

Simulation games are particularly useful for leading to high-level cognitive objectives relating to analysis, synthesis, and evaluation and for achieving affective objectives. (Beatty et. al., 1985: 568).

Students seem to achieve cognitive objectives by participating in simulation games as well as they would through other teaching approaches, especially more conventional classroom activities. (Chartier, 1973: 14)

The component skills comprising this faculty [group discussion and argumentation in law education] are said to be:

1. Research: awareness of sources and types of material, adaptation to particular use, methods of fact presentation;

2. Fact completeness: willingness to recognize all facts, avoidance of preconception and fiction masquerading as

fact, disciplined ability to withhold judgement until all facts are "in";

3. Fact differentiation: relevance of facts to particular issues, varying importance of different facts, relative persuasiveness of various facts;

4. Fact marshalling: reduction of facts to manageable proportions, arrangement of facts in logical and convincing order. (Williams, 1955: 401)

5. NON-COGNITIVE LEARNING:

Games and simulations help foster a wide range of non-cognitive outcomes such as decision-making, communication skills, and desirable attitudinal traits such as willingness to listen to other people's points of view in a number of different ways. (Beatty et. al., 1985: 568)

The component skills comprising this faculty [group discussion and argumentation in law education] are said to be:

10. Power of decision: resolution of discoverable issues in the light of short and long-term ends found preferable on explicitly identified and justified grounds. (Williams, 1955: 401)

6. REAL-LIFE LEARNING:

Simulation games allow the learning situation to be tailored to meet the needs of the exercise. This can be better than real life for learning, as games can both reduce the complexity of real life and include learning features that a real-life case can miss. (Beatty et. al., 1985: 568)

Games are often models of real-life situations. Thus, many students may see the relevance of information for their future lives. (Coble and Hounshell, 1982: 270)

Simulation seeks to stimulate certain aspects of life within the classrooms and then allows the student to learn by experiencing the consequences of his actions within that simulated environment. Learning, therefore, comes not by "trying to learn", but as a by-product of 'coping with the environment. (Stadsklev, 1969: 2)

The real-world conflicts and problems that arose out of the simulated models provided varieties of experimental learning intended to prepare the individual for the kinds of personal actions he would be taking throughout his lifetime. (Festa, 1976: 4)

7. MULTIDISCIPLINARY NATURE OF SIMULATION GAMES:

Games are multidisciplinary. Games require the utilization of many skills found in all of the major disciplines. (Coble and Hounshell, 1982: 270)

8. HETEROGENEOUS NATURE OF SIMULATION GAMES:

Games may be adapted to meet the needs of heterogeneous classes. (Coble and Hounshell, 1982: 270)

Simulation games have a way of reaching some students that other methods fail to accomplish. ... Students with low academic ability may very well do better in simulation games because they are highly motivated by this methodological approach. (Chartier, 1973: 14)

9. DEVELOPMENT OF STUDENT CREATIVITY AND CONFIDENCE:

Games and simulations allow participants to use and develop their initiative and powers of creative thought. (Beatty et. al., 1985: 569)

The preparation for simulation requires necessary classroom knowledge, and student involvement in the design of the game. The games also build confidence for the student as he or she is expected to speak publicly and gain support from fellow students. Simulation games can also take the form of mock trials, as constitutional hearings and trials on the Quebec-Canada crisis. (Craig, 1980: 72-73)

10. ATTITUDINAL CHANGE:

In summary, simulation game research indicates that ... opinions and attitudes are sometimes changed through the vicarious experience of a simulation game. (Chartier, 1973: 6)

Simulation-games seem to indicate that they can be powerful tools for influencing attitudes and values in the direction one desires to move them. The big moral implication of this is who and how do we determine what are desirable attitudes and values? Needless to say, teachers should be making an effort to understand this method and become proficient at employing it in their classes. (Stadsklev, 1969: 3)

Simulation games may influence a shift in student attitudes. ... Whether or not games influence attitudes probably depends upon the game, the degree of involvement in it, the students playing it, and what transpires in the post-game discussion. (Chartier, 1973: 13)

By providing information in a meaningful context, simulation may have tremendous potential for shaping and influencing the attitudes and convictions of the learner. (Stadsklev, 1969: 3)

Research has clearly indicated that simulation games using role-play are useful as classroom teaching tools. They are not without their problems, however, although few disadvantages have been documented by proponents of these activities. While some authors have criticized their own designs, the criticism tends to be brief and seldom constructive. Several researchers have identified problems and potential problems with simulation games using role-play. These include:

1. **NO NOTICEABLE INCREASE IN THE RETENTION OF KNOWLEDGE:**

The study provided no statistical evidence to support the hypothesis that simulation games enhance the ability of the student to acquire more factual and conceptual knowledge. (Stadsklev, 1969: 3)

2. **NO GAINS IN SKILL DEVELOPMENT:**

Those groups that participated in the simulation game produced no better cognitive test results than did their

counterpart control groups which were taught by conventional methods, (Rentz, 1978: 17)

3. **TOO MUCH WORK FOR STUDENTS:**

The most consistent criticism of the course over the years is that there is too much work involved. Although this is a standard complaint of many students, in this case, I feel that it is legitimate. There may also be too much work for the instructor. A conservative estimate is that the instructor spends half again as much time before his or her students than in the regular lecture format. (Bryan, 1983: 132)

4. **UNHEALTHY COMPETITION:**

One of the most serious flaws is the excess of conflict. Real enemies are made. Espionage is practiced. Students may be more enamored with the *strategy* of winning than with the substance of the argument. (Bryan, 1983: 132)

5. **UNFAIR ROLE SELECTION AND DIFFICULTY IN FILLING ROLES:**

How can the class be divided into two teams? Sociometric selection might be the best, in that friends would not be contesting friends. Yet this approach might result in an imbalance of talent. Moreover, it is important to demonstrate that *friendships must be able to survive conflict* in the organizational context. My choice is to divide the teams into equally talented groups. (Bryan, 1983: 133)

The jury is drawn randomly from the student body. Though it may be better to try to find neutral adults to be jurors, my conclusion is that this would be a difficult task. To find seven undergraduates who would spend an evening of their time as a juror is also difficult. We have found it necessary to pay them a \$10. honorarium. (Bryan, 1983: 132)

6. **DIFFICULTY IN MATERIAL DESIGN:**

Another feature of moot court programs which causes some concern is that this type of simulation works best if it deals with subject matter presently the focus of popular

attention, rather than through the use of a fictitious case which may be used repeatedly. (Cooper, 1979: 105)

One of the main problems for secondary school students is their sense of relevance of what they are learning to their future expectations. Motivation must be sustained beyond the transient rewards or grades and college admissions. Students must believe, and believe correctly, that what they learn will be important to them as adults. (Boocock, 1968: 80)

7. TEACHER ATTITUDE:

The use of simulated games may depend in part on the personality and teaching techniques of the individual professor. However, some professors who could effectively use simulated games in their teaching may be reluctant to do so. It involves a radical departure from the normal type of classroom teaching. The students must reassemble themselves into small groups for their discussion and then reassemble for the presentations. The teacher's role during the discussion period is more one of answering questions which any of the groups may have either to the problem or the rules of the game. (King, 1974: 587)

Our findings clearly indicate that differences do occur among social studies classrooms regarding learner cognitive attainment of law related content. While there are many reasons why classrooms differ, we have assumed teacher influence to be an important source of these differences. (Denton et. al, 1977: 10)

Some of the principal limitations on the effectiveness of educational games are the attitudes that teachers have about them. Some teachers feel that games are not 'serious', or that students will not take them sufficiently seriously, thus possibly dissipating student concentration on the topic being taught. Our experience has been quite the contrary, with students becoming utterly absorbed in game situations. The games seem to be an excellent means of sharpening concentration. (Boocock, 1968: 81-82)

8. LARGE AMOUNT OF PREPARATION:

But, even if educationally 'sound', the course simply may not be worth the large amount of the instructor's time. Between arranging sessions, counselling students, correcting papers, I spent about thirty hours a week on the course. Normally I would spend perhaps ten or fifteen hours per week on a course which I had taught before. (Botein, 1974: 241)

Heyman states that a great amount of preparation is necessary in order to present simulation games. (Rentz, 1978: 5-6)

The student learns the tremendous amount of care which must be exercised in organizing and executing an effective simulation. (Craig, 1980: 72-73)

The central problem inherent in all simulation processes, and in all model building as well, is that of adequate reproduction of the real system. In simulation, the researcher, teacher or trainer is trying to learn or teach about a real system by working with a model of it. If the simulator does not validly model the necessary attributes of the real system, the results found in solving problems in the simulated environment cannot successfully indicate the behavior of the real system. This means that the researcher must know a great deal about the real system before he can presume to simulate it, and that he must have reliable means (mathematical, physical or human) of reproducing it. If the replication of the system and the means of operating it are not valid, the experimenter will find the use of simulation dysfunctional rather than useful. (Guetzkow, 1962: 14)

9. NOISE

Simulations will also generate more noise than the activities of the traditional classroom, and some teachers and schools cannot tolerate much noise. While simulations do not encourage wild behavior, a great amount of freedom is necessary for the game to work, and noise in many instances accompanies freedom. (Rentz, 1978: 5-6)

A great deal depends on whether a teacher wants to use simulation games; if the individual teacher feels that they are a noisy, confused and frivolous activity then a game will not

succeed. In using such a new approach as simulation games in education it is best to do careful work on a classroom-by-classroom basis, rather than having a general staff adopt it wholesale. Having individual teachers and their students decide if, when, and how they will deal with simulation gaming would seem the best approach for really positive use of this innovation. (Adams, 1973: 103)

Their physical format alone demands significant departures from standard classroom arrangements. Chairs and tables get moved around, students move about the room freely or gather in small groups to argue over points of strategy. (Boocock, 1968: 261)

10. DIFFICULTY OF INTEGRATION:

...[I]t is often difficult to integrate the simulation with other aspects of the curriculum. Finally, teachers much accept the fact that for each educational method there are always some students who do not like it. (Rentz, 1978: 5-6)

...[I]t is important for new materials to fit comfortably within the existing curriculum and classroom procedure, it is also important that a game not be so structured and self-contained that resourceful teachers [and students] cannot make modifications to suit the particular kind of learning desired. (Boocock, 1968: 265)

11. LACK OF EFFECTIVE AND ACCURATE EVALUATION TOOLS:

The presentation and evaluation of knowledge is controlled through the use of such symbolic codes as written tests and oral presentations in well-defined instrumental procedures. It is through the mastery of those codes and techniques by the students that the school administration controls and assesses their knowledge acquisition, thus reducing all valued knowledge to publicly controlled knowledge. (Saegesser, 1981: 286)

Unfortunately, the bureaucratic arrangements of schooling do not easily accommodate appraisal techniques which permit thinking, controversy, and individuality of interpretation. Marks, scores, and averages are well adapted to

the school environment, but are inappropriate tools for assessing gaming effects. Pupils pay a high cost for the school's dependence on those evaluation methods, since the complexity and originality of each individual is not susceptible to averaging. Simulation games afford one counterbalance by providing a source of broader and more refined observational data to supplement test scores, expressed interests and aptitudes, and other data used for student advisement and placement. (Saegesser, 1981: 292)

12. HIGH COST OF RUNNING SIMULATIONS:

In some instances it might be decided that the cost of simulation prohibits its use and other less costly and/or less satisfactory techniques must be employed. (Guetzkow, 1962: 14)

13. INFLEXIBILITY OF SCHOOL TIME SCHEDULE:

The entire school system functions at the same rhythm. The locus of control of time is exterior to the individuals and to the class as a group. Class time is typically fixed at 45 minutes, with no consideration as to content, the characteristics of the pupils involved, the time of day, and, above all, the variety of possible classroom activities. (Saegesser, 1981: 282)

The diversity of opinion concerning the value of simulation games using role-play may, at first glance, bewilder. How does one balance the 'pros' and 'cons' of utilizing this innovative teaching methodology? While it is true that researchers disagree as to the superiority of moot courts and mock trials in promoting student learning and retention, most of the benefits and drawbacks identified can be clearly categorized. Simulation games using role-play offer some definite advantages for the student, and some definite disadvantages for the teacher.

These educational games appear to promote student motivation, creativity and confidence, as well as more positive attitudes. Teachers who use these games, on the other hand, are faced with the difficulties of filling roles, a large amount of preparation, inevitably higher noise levels and a lack of evaluation tools. The high cost of running simulations and inflexible school schedules may make this departure from traditional teaching methodologies even less attractive. Since it is teachers who decide which methods of instruction will be used in their classrooms, it appears that until their problems are adequately solved, simulation games using role-play will not be as widely used as might otherwise be the case, regardless of their benefits for students.

The outlook for simulation games using role-play is not entirely bleak, however. The list of problems seems to be getting shorter as educators develop new evaluation instruments, teaching materials stressing an integrated approach, as well as well-defined and tested procedures which will ensure a successful activity. It appears that simulation games using role-play are here to stay.

How do simulation games using role-play compare in effectiveness with the traditional lecture-discussion method of classroom presentation?

The latter method was described by Stadslev:

Lecture-discussion method - Students are given reading assignments in the textbook, but most of the same material is presented in class by the teacher with little new information being added. The teacher will inject questions to the class now and then in her presentation of information and answer questions that students will ask. (Stadslev, 1969: 8)

Stadsklev, in addition to Chartier (1973), Katsh and Katsh (1973), Festa (1976), Rentz (1978), Mandolini and Szafran (1980), and Frass (1980), tested the effectiveness of simulation games, such as mock trials, compared with the traditional lecture-discussion or Socratic methods. All of these studies concluded one thing: namely, that simulation games had no more negative effects on learning than did the traditional lecture-discussion approach. A summary of some of their findings follows:

1. SIMULATION GAMES STIMULATE STUDENTS' INTEREST AND CREATIVE THINKING

The experimental [simulation games using role-play] students said that this instructional experience had been interesting, enjoyable, meaningful, and that the students were alert, attentive, and involved in the learning situation. Above everything else, they agreed most strongly with the situation that this learning situation had stimulated their creative thinking.

The control [lecture-discussion method] students, on the other hand, were saying that this experience was somewhat meaningful but not interesting or enjoyable. The students were not alert, attentive, or involved in the learning situation and, above all, it certainly was not stimulating to creative thinking. (Stadsklev, 1970: 84)

2. SIMULATION GAMES TEACH PROBLEM-SOLVING AND DECISION SKILLS AS WELL AS CONVENTIONAL METHOD

...[S]imulation game research indicates that, in general, students respond with interest and motivation to games, that students learn content as well through games as through conventional methods, and that opinions and attitudes are sometimes changed through the vicarious experience of a simulation game. Findings dealing with the retention of learning are mixed. Problem-solving and decision skills are learned as well or better through simulation. Simulation games appear to teach winning strategies as well as the knowledge of those strategies. (Chartier, 1973: 6)

3. SIMULATION GAMES PRODUCE MORE POSITIVE STUDENT ATTITUDES TOWARD SOCIAL STUDIES

The study suggested that simulation games did enhance student interest and did produce more positive attitudes towards social studies. Although not every student had clearly discernible gains as indicated by grades or teacher opinions, the project experience arrested the downward trend of negative student feelings about the social studies. (Festa, 1976: 4)

4. **SIMULATION GAMES PROMOTE STUDENT INVOLVEMENT IN THE LEARNING PROCESS**

Law teachers have frequently argued that one advantage of the Socratic method is that students participate in the class process, and law students, when seated in law school courses daydreaming about their experiences in large undergraduate lecture halls, may believe that many students participate in law school classes.

In reality, however, control over the class is always located in the professor and the 'Socratic dialogue' is most often just that, a discussion between only two persons. On the other hand, all students participating in a game play roles and everyone participates. Each student is active, initiating appropriate actions, searching for constructive ideas, taking risks, and developing his self-identity. He is, quite simply, involved. Unlike the traditional classroom, the student in a game knows that he, not the teacher, is playing the primary role. Games, therefore, provide law students with one opportunity to use initiative in educating themselves. Very rarely, do participants complain of boredom. (Katsh and Katsh, 1973: 490)

5. **SIMULATION GAMES PRODUCE SUPERIOR RESULTS IN LEARNING, RETENTION AND ATTITUDE**

The findings indicated that the classes taught by simulation were significantly superior in learning, retention, and attitude. (Rentz, 1978: 10-11)

6. **SIMULATION GAMES HAVE NO APPARENT NEGATIVE EFFECT ON COGNITIVE LEARNING**

What this article has accomplished is to examine the effect of a simulation game, when conducted as part of a large introductory course in sociology, on two aspects of cognitive knowledge - test performance and recognition of sociological concepts in nonsociological readings - and to find it negligible. (Mandolini and Szafran, 1980: 334)

An analysis of the study's data revealed that the simulation-gaming method of instruction was superior in improving the course grades of students who possessed a certain combination of cognitive learning styles. The lecture-discussion method of instruction, however, was superior for the students who lacked that same combination of learning styles. (Frass, 1980: 3)

The long history of moot courts and mock trials as teaching tools, coupled with the advantages indicated by research studies, prove their effectiveness in the classroom. It appears that these two activities have become firmly entrenched as significant teaching tools in legal education. With recent developments in infusing law-related education into the schools, simulation games using role-play, such as mock trials and moot courts, will soon become as strongly entrenched in the school classroom as they are in North American law schools.

Moot courts and mock trials have proven their educational value over the years. Research has shown that there are some problems with these activities, but it has also clearly illustrated their benefits. Like every tool used in the classroom, be it videotapes, computers or books, simulation games using role play should be viewed as a method of constructively supplementing the learning process. Stadslev notes:

Although simulation is certainly not a panacea for the shortcomings of education, it does seem to offer as much potential for the future of education as any other development on the educational horizon. (Stadslev, 1969: 3)

Society is growing rapidly. Education must keep pace if students are to be successful in meeting the challenges of a technologically advanced society.

Proponents of mock trials and moot courts view simulation games using role-play as one innovative way in which educators can better prepare their students for these challenges. Change in classroom methods has been on the minds of many progressive educators for more than a decade. As early as 1975, Jean Tilford Claugus, President of the National [USA] Council for the Social Studies, was pointing out its urgency:

We are only twenty-five years away from the twenty-first century, in which our students will spend most of their lives. Time for the Social Studies educator is running out. If we do not face reality now, I predict we [Social Studies] will no longer exist as an identifiable educational unit by that date. (Clausus, 1976: 151)

CHAPTER TWO

Moot courts and mock trials in the United States

Everyone was writing and planning furiously, arguing about proper procedure, looking up precedents, calling lawyer friends for information....

- Abbot, 1983: 87

Teaching lawyers basic lawyering skills has been a problem throughout the history of American legal education (Matlon, 1982: 39). In colonial America, legal education was based on an apprentice system, whereby a beginning lawyer would work with an established, practicing lawyer. Observing their mentors in action, the lawyers-to-be acquired the skills needed for practicing law. However, the apprenticeship system was inefficient and cursory (Matlon, 1982: 39). Shortly after the American Revolutionary War, the legal community felt that a better, more uniform system was needed to ensure well trained, high quality practitioners who could interpret the constitutional wishes of a new fledgling nation.

Ronald J. Matlon traces the development from the apprentice-system to today's law school format:

With the nineteenth century came an important transition in legal education - the beginning of the modern, university-related law school where a future lawyer was commonly devoting full-time to his books and lectures and the distraction of the office and courtwork was removed. Consequently the emphasis on lawyering skills diminished.

By the early 1900s, law schools had virtually eliminated practical skills training from their programs. Instead, they modeled their programs after the Harvard curriculum with its use of the case study method. Founder of this method was Christopher Columbus Langdell who believed that law school meant library law. The lawyer-client relation, the numerous non-rational factors involved in the persuasion of a judge at trial, the face-to-face appeals to the emotions of the juries, the elements that go to make up the atmosphere of a case were virtually unknown to Langdell. By the end of the nineteenth century and well into the twentieth century, the case study became the modus operandi for at least one and possibly all three years of full-time legal education. (Matlon, 1982: 39)

The first American lawyers learned about law by observing, and imitating, their superiors. Young aspiring lawyers were guided by practicing lawyers in the office, as they dealt with clients and other day-to-day matters. In court, the apprentices watched these legal masters in action. Eventually, when they had achieved the status of a practicing lawyer, they would be filling a role modelled by their legal mentors.

This system of apprenticing was not deemed a suitable method of legal education, however. While the legal community was struggling to develop a higher profile and a more professional status in the new nation, the apprenticeship system for lawyers resembled that undertaken by tradesmen, a notion that worried the professional legal community (Matlon,

1982). Its members wanted to get away from the "practical art" of lawyering, and shift to a more "ivory tower" methodology of legal education. Research has shown that this idea worked well in the 1800s and even during the early 1900s, but today, it presents problems.

Matton and other educators such as Donald E. Williams (1955), Howard R. Sacks (1959), James H. McBath (1961), Glen E. Mills (1976) and David M. Hunsaker (1980) were just a few of those arguing that law schools had to shift from the predominantly case study approach, as designed by Langdell, to a more practical curriculum, giving the fledgling lawyer the experience needed in dealing with some of the basic courtroom survival skills. They argued that moot courts and mock trials were essential activities designed to instruct students in these basic lawyering skills. Further, it was argued that these activities should not be regarded as extra-curricular exercises, as was customary, given the "ivory tower" nature of the law schools of the time, which were deeply embedded in Langdell's methodology. Rather, it was argued, they should be seen as valid courses in which full course status, complete with academic credit, should be given. Some even argued that these courses should be compulsory. Hollander (1978) documents some of the voids left by the more traditional methodology:

Clinical training [simulation games using role-play] programs in law schools are a response to what were felt to be serious gaps in legal education resulting from use of the methods with [their] intensive emphasis on appellate decisions. ...[T]he case method fails to consider legal and administrative materials, pre-trial proceedings, legal institutions, the legal profession, and social and psychological focus.

...[S]kills not taught by the case method or Socratic questioning are the following:

legal skills other than case analysis such as fact investigation, planning, drafting, research, trial strategy and tactics, advocacy;

human relations skills, including interviewing, counselling, negotiating, communications, and emotional understanding in general;

the ethical and social responsibilities of the profession, and knowledge of current substantive law. (Hollander, 1978: 321)

It was an uphill battle. As recently as the early 1960s, prestigious law schools such as Harvard were still maintaining very general objectives in their law programs, making it easy for older law professors to continue to cling to the traditional case study approach (Anderson, 1980).

However, by 1965, the concept of simulation games using role-play, complete with a more practical approach to legal education, was quickly gaining ground in American law schools. Educators such as Boocock, Hollander, Matton and Mills were making great strides in winning the battle for the nation-wide introduction of these two activities. Authors in publications such as the Journal of Legal Education argued for either the integration of moot courts and mock trials as credit courses or justified their existence as educationally sound activities. Research and development by legal educators during this period resulted in the development of the moot court and mock trial formats being used today. In 1976, Harvard Law School brought out a book entitled: Introduction to Advocacy, of which an entire chapter was devoted to these two teaching tools. By 1985, moot courts and mock trials had been installed as credit courses in almost every law school in the United States.

But why did this shift occur? Ronald A. Gerlach and Lynne W. Lamprecht, in Teaching about the Law, a legal methods textbook published in 1975, state that these instructional methods tend to:

- Build upon and further the development of a student's imagination, ingenuity, creativity, and/or critical thinking skills;
- Promote the free expression and analysis of a student's attitudes, opinions, beliefs, and values;
- Place the student in a situation or setting involving some particular problem, process or predicament that is often found in the real world;
- Call upon the student to assess the situation, to consider alternative courses of action and modes of behavior, and to test his or her decision regarding the matter under consideration;
- Require careful preliminary planning by the instructor and initial warm-up exercises, trial activities, and preparation time for the participants;
- Necessitate extensive debriefing and indepth analyses of the experience of the participants by both the teacher and class following the completion of every activity. (Gerlach and Lamprecht, 1975: 213-214)

Several other authors have also shed light on the shift from the traditional case study approach to moot courts and mock trials. Reasons for the shift, as identified by several researchers, can be grouped under six headings:

1. MORE REALISTIC FOR THE STUDENTS:

...[T]he realism of the moot court format forcefully impresses upon the students their responsibilities to the client and to society. (Crouse and Thorpe, 1982: 1)

Simulation is like a game or an acting performance where law school students act as lawyers and perform lawyer roles in interviewing courses, negotiation courses, trial technique courses, and moot court. (Matlon, 1982: 42)

2. SKILL DEVELOPMENT:

The goal of such courses is to concentrate directly on advocacy skills, giving students a chance to prepare for trial and actually act out simulated cases. (Matlon, 1982: 42)

Professor Matt Dawson teaches 'Practice Court' at Baylor University, often makes analysis of argument, lawyer credibility, language, delivery, and jury appeals the focus of his criticism. (Matlon, 1982: 53)

3. **ACADEMIC BENEFITS AND EXCELLENT EDUCATIONAL EXPERIENCE FOR STUDENTS:**

...[W]e are convinced that Moot Court provides an enriching educational experience for debaters. In addition it is a relatively inexpensive activity which provides visibility for the department on campus. It provides a link between the department and other university disciplines. It provides links to the community through lawyers/advisors. Perhaps more importantly, it gives undergraduates an opportunity to see communication at work in a real-life setting. (Thorpe and Crouse, 1982: 16)

Too often overlooked is the academic benefit to be derived from a good moot court experience. The sort of analysis and synthesis implicit in arguing any appeal is the meat of legal education in the normal classroom. ... But in moot court the student has several weeks to dig into an analytic problem. He or she can slowly develop an understanding of the uses to which prior authority can be put. Potential analogies can be posited and restructured again and again until the finest of distinctions are apparent. Cases can be organized and reorganized until a rule appears which can succeed. In moot court, cases and their use are the problem, not merely the medium for education. (Gaubatz, 1981: 89)

... By illumination, moot court can materially assist the educational process. It can clarify concepts commonly used in the classroom and in effect can provide a tutorial for legal education. (Gaubatz, 1981: 89)

Mock trials are more than fun, however; they're first and foremost invaluable learning experiences. Participation in and

analysis of mock trials provides students with an insider's perspective from which to learn about courtroom procedures. Mock trials help students gain a basic understanding of the legal mechanism through which society chooses to resolve many of its disputes. And while obtaining this knowledge, students develop useful questioning, critical thinking, and oral advocacy skills, as well as significant insight into the area of law in question. (Arbetman, 1978: 13)

4. PROVIDE PRACTICAL LEGAL KNOWLEDGE:

Participation in mock trials can help students better understand the roles which the various actors play in the justice system, including the difficult conflicts those persons must resolve daily in performing those jobs. On a more complex level, it is an excellent vehicle for the study of fundamental law-related concepts such as authority and fairness. (Arbetman, 1978: 13)

... Finally, mock trials will give students some practical knowledge about courts and trials which can be invaluable should they ever be witnesses in a real trial or principals in a legal action. (Arbetman, 1978: 13)

5. LEARNING BY "DOING" APPROACH:

In Loyola of Chicago Trial Advocacy seminar, Professors Morrill and Tornquist, believers in the 'teaching by doing' and not the 'lecture' approach, require each student to conduct as many trial exercises as possible. (Matton, 1982: 42)

6. SUPERIOR TO TRADITIONAL METHODOLOGY:

I had two main reasons for this one-hundred and eighty degree change from the conventional teaching of administrative law. First, nothing seemed worse than the conventional case approach. Second, a student theoretically can transfer learning from a known situation to an analogous one. (Botein, 1974: 234)

Simulation claims several advantages over conventional methods of teaching. It motivates the participants. It permits realism and relevance to enter the instructional system by making situations problem-based. It permits participants to

assume roles that will be theirs in the future and to gain experience in those roles. It enables complex problems to be made simple by abstracting from the realities only those elements that are relative to the teaching situation. (Hollander, 1978: 341)

Before this last year I had taught administrative law twice and hated it both times. In my encounters with the subject, I used a conventional case book and case method. The result was a federal disaster area. Students were bored, confused and apathetic; class discussion was non-existent. The subject fascinated me, but bored my students. Moreover, even my limited experience in administrative practice indicated that the course simply did not prepare students for the real world. (Botein, 1974: 234)

But what format was finally adopted for moot courts and mock trials in a law school setting? Although no text has been written on the topic, law schools tend to follow a mixture of the formats suggested by Matlon (1982), Moutlon (1966), the Harvard Law School Board of Student Advisors (1976), Gerlach and Lamprecht (1975), Botein (1974) and Barber (1978):

I. Moot Court:

Moot court involves the actual preparation and trial of appellate cases. Student lawyers are expected to brief a case for one side and to argue it on appeal before a panel of judges. The goals are to familiarize students with brief drafting, preparing an appellate record, and competence in oral advocacy. (Matlon, 1982: 43)

The class used this basic problem [renewal of a radio station broadcasting license to a simulated Federal Communication Commission] to simulate seven aspects of the administrative process - a negotiation and pre-hearing conference, an evidentiary hearing, full Commission review, judicial review, a rulemaking proceeding, and judicial review of rulemaking. The class met for two hours in the simulation

session and then reconvened the next morning to analyze the previous day's session. (Botwin, 1974: 236)

...[I]t is important that all participants understand that a moot court is patterned after an appeals court or a Supreme Court hearing. Students may expect a mock trial, so attorneys must be prepared to explain that in a moot court, the court, comprised of a panel of judges, is asked to rule on a lower court's decision. No witnesses are called, nor are the basics in a case disputed. Arguments are prepared and presented on the application of a law, the constitutionality of a law, or the fairness of previous court procedures. In many ways a moot court is like a debate, for each side presents arguments for the judge's consideration. Moot court hearings often help participants develop a greater understanding of the appellate level of our legal system and of the subject being debated. (Turner and Parisi, 1984: 105)

2. Mock Trial:

a. The Course:

In a University of Southern California course entitled 'Criminal Trial Advocacy' ... students alternatively portray prosecutors, defense attorneys, and witnesses in mini-trials. (Matton, 1982: 42)

b. Briefing Session:

In the briefing session, the students selected a role and were given a brief bibliography leading them to information on the personality of the decision maker they were to role-play. They supplemented this with additional literature the students voluntarily sought to enhance their knowledge of the decision maker they would represent. Within the simulation structure, the task assigned to the students was to make a decision. (Barber, 1978: 406)

c. Pre-trial Activity:

A trial technique course usually begins with pre-trial activity such as motions practice, briefing, and jury selection

(voir dire): Next, classroom emphasis shifts to various aspects of the trial itself [e.g. opening and closing statements, direct and cross examination, exhibits, objections, and the use of experts]. (Matlon, 1982: 42)

d. The Trial:

Obviously there are some unavoidable differences between the details of the actual legal procedure in court and the arrangements for the mock trial, but in so far as possible, the mock trial adheres to the procedures of the type of court before whom the case at issue would logically be tried.

In order to adapt the proposition for debate to the requirements of the mock trial, the proposition is phrased so as to call for a decree of specific performance or a writ of mandamus from the court. [In law, a writ of mandamus is a written order requiring that a specified thing be done, issued by a higher court to a lower court, or to a corporation, city, official, etc. The term came from England, and was originally a writ or royal command.]

Each of the participants in the mock trial plays the role of a participant in an actual court trial. ... Each side may call three witnesses, each of whom plays the role of a recognized authority; the witnesses must limit their testimony to recorded facts or the actual written opinions of those whom they represent. The court is opened by the bailiff [also represented by a student] who swears in witnesses and acts as timekeeper. The jury is made up of twelve persons selected from the audience. (Mouton, 1966: 185-186)

Students come to class in appropriate dress for lawyers. They take these classes very seriously. They may well focus more on advocacy than any other law school program in the nation, the advantage being that they are able to place visible trial lawyers in high places in the Texas justice system. (Matlon, 1982: 51)

e. After the Trial / Debriefing:

Full trials culminate most advocacy courses. After each trial, the jury deliberates. While the jury is out of the courtroom, the presiding judge (usually the course instructor and occasionally some invited trial lawyers) critiques the case

with opposing counsel or counsel teams. The critique is often done while reviewing segments of the trial from videotapes. (Matton, 1982: 43)

During the debriefing session, both the students and the instructor were given the opportunity to respond to and critique the value of the simulation. For instructional purposes, the debriefing gave the teacher a chance to evaluate her teaching style and to detect student misinformation or lack of understanding. The students, in contrast, had the opportunity to find out what they had learned by participating in the design and execution of the simulation. The debriefing, then, provided all participants with a period in which to evaluate the advantages and limitations of using the role simulation. (Barber, 1978: 408)

In summary, it can be concluded that by the early 1970s, most North American law schools had agreed that moot courts and mock trials were excellent teaching tools. Law school professors, encouraged by the research and positive arguments, eventually realized the potential of these two activities and became eager to incorporate them into their programs of studies.

In addition to moot courts and mock trials, several new simulation games using role-play have been developed since the early 1970s. These operate in a similar manner to a moot court or a mock trial, but have shifted the focus away from the traditional courtroom atmosphere.

While the law schools, in the past two decades, realized the need for a more practical approach to law education, they also concluded that the greatest part of a lawyer's professional life was not spent in the courtroom. This realization, as well as pressure from various legal groups over the

inaccuracy of the public's perception of a lawyer, resulted in new demands upon law school education.

By 1973, practicing lawyers were arguing that the law schools were beginning to sway too much to the side of practical courtroom training.

The criminal justice process operating in this country is substantially different from that portrayed in the media. The dramatic potential of courtroom trials has long been exploited by novelists and playwrights, probably because the image of lawyers locked in rhetorical combat invokes the same romantic excitement as gladiators in an arena or gunfighters at high noon. (Katsh et. al., 1974: 23)

To answer the demand for even more innovation in legal education, a new group came to the fore in the 1970s. This group focused its attention on other facets of a lawyer's daily activities. As a result, new simulation games using role-play soon came into being. Some were offshoots of the moot court and mock trial activities. In 1978, for instance, Patricia A. Hollander and her colleagues at State University of New York at Buffalo developed a simulation game entitled "A Simulated Law Firm".

The SLF adopts the concept of the law firm and courtroom as the center of student learning, rather than the classroom. Unlike the standard course sequence - which proceeds from assigned readings, to discussion to testing - the activities of the various student-faculty-practitioner simulated law firm groups evolve on a case-by-case basis much as the activities of actual law firms do. Student associates handle simulated cases from the initial interview with the client, through a hearing before a judge, and so on to the closing of the file. (Hollander, 1978: 311)

Others, such as M. Ethan Katsh, Ronald M. Pipkin and Beverly J. Katsh, have been working since 1974 in yet another area - the legal negotiation

process. Plea bargaining is an integral part of the criminal justice system, as that system is incapable of handling the volume of cases demanded of it by society (Dunn, 1980: 495). Katsh et. al. were eager to address what they saw as a serious need within the law schools:

More than 90 percent of all felony cases end in nontrial dispositions. They end when the defendant agrees to plead guilty rather than go to trial. Most guilty pleas occur when the individual accused of a crime is offered the option of pleading guilty in exchange for the promise of a light sentence. This process is generally called plea bargaining and represents a deal made between the accused, his lawyer, a prosecutor, and usually the judge. Most students of law, however, are unaware of this facet of the legal system. Most textbooks which introduce a study of the legal process give only the most cursory reference to plea bargaining. Many teachers do not discuss the topic, either because they do not know very much about it or because they consider it to be an unfortunate perversion of the system.

In order to encourage an empathetic understanding of plea bargaining and the pressures and dynamics that foster it, we have developed a plea bargaining simulation game. It is our hope that students, by acting the parts of the various participants in the process (judges, prosecutors, public defenders and accused), will attain two goals: a better understanding of the causes and dynamics of plea bargaining and a firmer basis on which to question and examine the values that the system produces. (Katsh et. al., 1974: 23)

These educators were not the only ones calling for changes in existing educational methodologies. There were still those law professors who preferred the Langdell case study approach and were determined to hang on to this methodology. In order to introduce this new simulation gaming concept to these Langdell stalwarts, a compromise was needed. In 1985, Haig Bosmajian developed a case study activity, using a form of simulation, which centred around judicial decisions closely resembling the case study concept.

It was different from the old Langdell case study approach - which required students to pore through mounds of case books in a law library setting - in that it gave the students an opportunity to examine a totally new, and according to Bosmajian, "exciting" area of legal study. Bosmajian felt that by reading, discussing and even acting out judicial decisions, benefits similar to those offered by simulation games could be realized, without a serious departure from the case study method.

Speaking and writing in an organized manner, presenting reasonable arguments, making crucial distinctions, expressing oneself through effective wording and phrasing - all these are the goals of an educated person. (Bosmajian, 1985: 452)

Justice Harlan, delivering the opinion of the Court, gave us a short lesson in (1) clear reasoning, (2) definition, (3) precision, (4) making distinctions, (5) organization, (6) effective wording and phrasing, (7) free speech in a democracy, and (8) some functions of language. (Bosmajian, 1985: 455).

There are many judicial opinions that are interesting and written clearly enough for students to read, and are at the same time crucial to the welfare and interests of the individual and society. Indeed, these opinions may be closer to the interests and concerns of students than many of the essays, speeches, and articles they have been required in the past to read and analyze. (Bosmajian, 1985: 462)

The law schools became embroiled in an argument as to which was the best technique: the Langdell case study, the Bosmajian model, judicial decisions simulation, or simulation games using role-play. However, in true legal fashion, a compromise was reached. Today, case study still forms a critical, and major, part of an aspiring lawyer's program of studies. However, law professors now agree that simulation games using role-play definitely have an important place in North American law schools. Most offer credit

consideration for student participation in moot courts, mock trials or other such simulation games. The future of moot courts and mock trials seems very secure within the law school environment. But, what about elsewhere?

Until twenty years ago, moot courts and mock trials were seen as the exclusive preserve of law school classrooms. There was no widespread use of these activities in the public schools until the late 1960s and early 1970s. At that time, the American Bar Association (ABA) undertook an extensive program of law-related education in the public schools throughout the United States. Funded by both its own sources and by federal and state governments, the ABA spent hundreds of thousands of dollars on law-related education in the public schools during the 1970s.

The need for the development of programs to expose America's youth to legal concepts quickly became accepted. Many of the members of the American Bar Association had received their professional training at law schools which used moot courts and mock trials. These lawyers became responsible for shifting a former preserve of the American law school into the public schools. It seemed only natural that the "time-tested" moot court and the recently developed, and proven successful, mock trial should be chosen as an effective teaching tool for the public schools.

By the mid-1970s, mock trial kits had been developed, state-wide mock trial competitions were being held annually in more than ten American states, and work was well underway to develop a national mock trial competition for the public schools. Yet the moot court remained, for the most part, an educational tool of the law schools. The legal community felt its

appellate nature, complete with extensive research and briefwriting requirements, would not excite America's youth as much as the glamour and lustre of a mock trial, which was similar to the exploits of televised legal programs such as "Perry Mason" and "Petrocelli", in the vogue at that time.

As a result of the ABA initiative, hundreds of new law-related education programs were started across America. In almost every state, moot court or mock trial was one of the teaching methods suggested, with the latter being preferred most of the time. In view of the legal community's deep commitment to the ABA program, a great deal of effort was made to scale down the elaborate moot court and mock trial format, as used in the law schools, to better meet restrictions in the public schools: the short periods, classroom configurations, integration into existing curriculum, and lack of resource materials.

Over the next ten years, while the law schools sought to add new games such as "Plea Bargaining" and "Simulated Law Firm", most teachers were still struggling with the concept of moot courts and mock trials. For the most part, the only time a public school teacher saw the inside of a courtroom was either to face a charge, serve on a jury or appear as a witness. Courtrooms were often regarded as a less-than-exciting place to take a grade seven geography class on a field trip.

Even so, many educators felt that if moot courts and mock trials were successful in law schools, they should be equally successful in the public schools. At a 1980 Summer Institute, sponsored by the Law in American Society Foundation, educators from across the United States examined the

direction which law-related education was taking. Teachers generally believed that the mock trial was a good experience for students. Through its use, students became intellectually and emotionally involved in the roles of judge, prosecutor, defense attorney, juror, witness, defendant, and so on. This involvement reinforces the internalization of the concepts inherent in the adversary process and highlights value conflicts present in a trial. (Lamont, 1982: 22)

Also, at the Institute, teachers generally agreed that the mock trial appeals strongly to students. On the other hand, some said that it is so oriented to details that students don't clearly see the value conflicts within a case. Others disagreed, saying that they and their students became aware that a significant portion of the law was procedural, especially in the criminal justice system. (Lamont, 1982: 22)

As a result of this and other similar institutes, conferences and workshops, teachers began to develop their own approaches to law-related education in their disciplines. Many law teachers in the public schools continued to use a blend of moot court and mock trial, along with the Langdell case study, and traditional lecture-discussion method.

During this time, a considerable number of activities were designed by regular classroom teachers not teaching law as a formal course. Interested in legal concepts, innovative educators integrated moot courts and mock trials in subjects such as biology, English and social studies. Several of their programs have been briefly excerpted and are presented here as a sample of the work which was undertaken by those American educators not teaching law as their primary subject.

1. SECONDARY LEVEL:

English:

The mock trial interests the students and provides experience in developing and judging argument and persuasive skills.

For a course that meets five times per week, two weeks' running time for the trial is effective. The first week should be spent in assigning parts, learning the facts of the case, and gathering pre-trial testimony. The second week should be invested in presentation of the evidence, summation of arguments, the charge to the jury, and the return of the verdict. Considering the number of participants and the variety of experiences, this schedule provides for effective use of time. (Fadley, 1975: 375).-

Since every student was to have a role, no one hassled over any special one. A surprise volunteer was Danny, the boy who wanted to quit school, the boy who hated changes, who rarely spoke in class. He wanted to be the defense attorney for Mitchell, the defendant, ... I kept my doubts to myself. ...

'Who wants to be on the jury?' I asked, underestimating the kids' mania for realism. 'Wait a minute,' Danny spoke out indignantly. 'Is that how it works?' No! You told us you was asked questions - each lawyer asked you questions to see if you was right for the case, right?' He didn't wait for an answer. 'Well, that's the way we should select this jury here. I don't want no prejudiced person on my jury!' My doubts about Danny's abilities were diminishing.

The trial began. Danny's opening statements were forceful and convincing. My doubts were completely gone now.

... Finally, it was over. The jury filed out into the hall to deliberate. We busied ourselves while we waited. Ten minutes later, a verdict. 'We find the defendant Not Guilty.' Everyone talked at once. Congratulations, hugs for Danny - it was almost as if he had been on trial. (And, I think, in my mind he was...)

We reviewed the procedure the next day, and questioned the jury on their verdict. 'It was Danny who convinced me,' said Amy. 'He was so well prepared, he sounded so convincing, I had to let Mitchell off.' The others agreed.

... And I took a few minutes to go through the letters that had been accumulating all week. Danny's was on top. This last week of the trial was really the best out of the whole year. I

guess it was the change of ways of doing things. I looked up and caught his eye. 'Didn't I tell ya I could do it?', he asked. 'You certainly did,' I nodded. 'I rest my case,' said Danny. (Shawn, 1979: 6-7)

It was not at all difficult for me to evaluate this unusual project.

(1) This was a one-shot performance and in no way could it be presented to another class as first planned. It could not be rehearsed; its effect lay in its spontaneity. It was for real even though it was not real.

(2) Having read the play and having seen the movie, the class felt that the trial really made the play come alive before their eyes. They admitted they sensed the struggle much more acutely.

(3) The interest level was so high that I virtually had to hold it back lest it run away with us. This fact alone made the project a success. Although we did this several years ago, I know there are twenty-six former students who will never forget Ibsen's *A Doll House*. (Hrybyk, 1983: 45)

Science:

For example, one class presented the following types of physical evidence: (1.) Preserved specimens supposedly killed by pollutant; (2.) Water sample containing pollutant; (3.) Income tax returns showing comparisons of income for two successive years; (4.) Notarized document [mock] from a state Stream and Lake Pollution Control Board; (5.) Diplomas for all expert witnesses showing proficiency areas; (6.) A scale map of the area in question, including (a) Depth of lake, (b) Land scale showing elevation, (c) Location of resort that was the plaintiff's. (Berta, 1973: 58)

2. ELEMENTARY:

Social Studies:

A fourth grade text which, while extolling the achievement of an Alexander Graham Bell, also dealt with the legal battle waged by Albert Meucci to challenge Bell's claim would make history exciting and real. It would provide a

magnificent opportunity to deal with the theme of protecting a claim to an idea or property (patent and copyright law). (Anderson, 1980: 114)

One of the topics we have used successfully at the primary level is the law as it relates to pets and wild animals. Most young children have some familiarity with animal laws because of problems with their pets. Some have talked with animal control officers and others have reported dog bite incidents. The subject is broad enough to offer possibilities for revealing the 'modus operandi' of the legal system, and, at the same time, narrow enough to keep discussions in focus and permit logically structured lesson plans.

The questions children are likely to ask regarding animal laws dovetail nicely with the goals of law-focused education. Shaping these goals for beginning students is a matter of paring to the possible the list of objectives.

What are some basic concepts about law that may be introduced at the primary level? A third-grade student in law-focused studies might begin to gain insights into the following concepts:

- (1) The purpose of law;
- (2) The difference between rules and laws; and
- (3) The role of state and local laws in regulating ordinary daily activities; and the diversity of such laws.

The following examples show how children's questions about animals and the law may be used to develop more general legal concepts:

1. Is it against the law for a cat to roam in the neighbourhood?
 2. Why can't I keep a horse in town?
 3. Could I have a baby Ocelot for a pet?
 4. Why can't I take my dog into the grocery store?
 5. What would happen to me if my dog bit my friend Steve?
- (Swiger, 1974: 29)

New England settlers surviving severe winter; ... unequal division or theft of food from a common storehouse in a New England colony; father/mother loses a job and needs to feed the family; a Babylonian farmer diverts irrigation water away from his neighbour's land to his own land. (Anderson, 1980: 113)

English:

Mock trial experiences, built around reader stories, other literary sources, or social studies materials. These might be followed by simulated court hearings on classroom incidents. Both sides present arguments and facts to support their views. Eyewitness accounts are given through testimony. The teacher's role here must be to guide, and help students avoid falling into kangaroo court fallacies. What happens when two honest, good, and sincere people see the same accident with different eyes? (Anderson, 1980: 114).

The complexities of courtroom procedure and rules of evidence often dissuade the classroom teacher from using the mock trial strategy. As a result most children are never exposed to this highly motivated experience.

In pro se courts, complicated rules of evidence are reduced to common sense and procedure is kept at a minimum. A student observing in this courtroom can focus on the essence of judicial decision-making: deliberation on the issues of a case.

This pro se court simulation has been designed to provide an opportunity for students to role-play a case by starting with a minimum of roles: judge, plaintiff, and defendant. Once each student has played each of these roles the observer and attorneys' roles are added. In this way the mock trial is broken down and then rebuilt. The simulation offers a "stepping stone" to using the mock trial. (Gallagher, 1973: 27)

Whenever possible, class/real-life analogies would provide a transference of learning not offered by the story alone.

For example, in *The Magic Rings*, Pat and Harriet send away for an advertised special: magic rings. When the rings arrive they are disappointed to find that both rings are damaged or broken. Each ring was to have a whistle attached. A friend temporarily solves their problem by putting Harriet's good whistle on Pat's good ring. The resulting magic ring turns out to be a dog whistle and the neighbourhood dogs come scrambling. ... But let us return to the point in the story when the pair discover both rings deficient.

1. What is the situation?
2. What if you (your parents) order something and it arrives broken or damaged?
3. What can a person do? (What are your rights under the circumstances?)

4. What is the responsibility of the company?
5. Are there any laws involved?
6. What are some ways to deal with the situation?

The consumer conflict/law involved in this story is made to order for discussion, for role playing (transfer the scenario to a local store), for varied story endings, for add to's... (Anderson, 1980: 112)

As the foregoing excerpts illustrate, simulation games using role-play can be adapted for use in any subject area and at virtually every educational level. Yet educators agree that the successful introduction of moot court or mock trial into the public schools depends on an integrated approach. A foundation for these activities must be laid at the elementary level, through a very rudimentary approach aimed at establishing an understanding of the process of law. More detail is added at the junior high level, bringing the students' understanding of the legal system to a point where they are able to understand basic concepts, legal organizations and processes. Finally, at the senior high level, students should be able to deal with theoretical and abstract issues designed to create within the student a clearer understanding of the complexities of life. When one reviews the work of educators between 1973 and 1985, this developmental pattern comes increasingly clear.

Writers such as Gallagher (1973), Swiger (1974) and Anderson (1980) suggested that mock trials at the elementary level should be very simple and easy to follow. Gallagher, as previously mentioned, went one step further and developed a concept which she called, as a "Pro Se Court" (Gallagher, 1973), which was a rudimentary mock trial for grade three and four students. Anderson, along with many other elementary educators, feel that law-related education through direct involvement in a mock trial format

is a worthwhile educational experience which has a great deal to offer both the students and the teachers:

Can young students (K-6, ages 6-11) begin to develop 'legal reasoning'? I believe they can in terms of learning to speak logically and apply reasoning to areas such as problem solving, conflict resolution, and valuing. Such 'legal reasoning' includes:

1. Identifying the facts;
2. Determining the issues;
3. Developing the arguments;
4. Weighing the facts, issues and arguments;
5. Reaching a decision.

This is a process fully compatible with and incorporating cognitive skills already associated with social studies and stressed by most current materials and text writers:

1. Identifying the problem (conflict, value dispute, decision needing to be made);
2. Hypothesizing;
3. Gathering data;
4. Evaluating data/weighing evidence against hypotheses;
5. Reaching a solution/decision in light of considered consequences. (Anderson, 1980: 113)

At the junior high level, just as at the elementary level, mock court is a favorite simulation game using role-play. For mock trials in junior high school, writers such as Hrybyk (1983), Fadley (1975), Shawn (1979) and Berta (1973) suggested a shift from the rudimentary approach taken by the elementary teachers, to more advanced study. The mock trials detailed by those studies were much simpler than those of the law schools, but they included detail and the students responded with enthusiasm. The teachers, at this level, capitalized on their students' energy along with their thirst for detail and accuracy, with excellent results. These activities followed the same format used in the law schools, as described earlier in this chapter. The only

difference was in the amount of detail, research and brief writing. Even so, the programs were a success.

Everyone was amazed at the accomplishments of this little group of *failures*. The way in which the roles developed gave all the students a chance to shine in areas in which they were knowledgeable or interested. The diversity of talents surprised and pleased me. I think they surprised each other too. (Abbot, 1983: 87)

Research, to date, has not turned up any evidence of moot court being used at either the elementary level, or the junior high or middle school level. The belief of members of the American Bar Association--that the excessive research, brief writing and lengthy presentations, which form a critical part of moot court, would not stimulate the average student from kindergarten to grade nine--was probably accurate in this case.

This conspicuous absence of moot courts at the elementary and junior high school levels, does not, however, extend to senior high. Stamper (1973) uses a moot court format, as do other innovative teachers such as Mabry (1976), who uses it to prove geometry theorems and Shadiack (1975), who proves a scientific theory using this method. Most law courses offered for credit are at the senior high level while at the other two levels, law-related education is integrated with other subjects such as social studies. Yet mock trials, along with moot courts, are suggested and even stressed by both legal educators and school administrators as very important teaching tools in senior high programs. Allen (1983), Burco (1980), Mathews (1980), Nelson (1980), Turner and others (1981) and Wisconsin (1976). It is at the senior high level that the mock trial competitions are held in many American states with the blessing of the state bar associations. By 1980, state-wide mock

trial competitions, at the senior high level, were being held in Utah, Colorado, California, Tennessee, Missouri, Wisconsin, District of Columbia, New York, Oregon and South Carolina. In addition, there were mock trial competitions being held on a more localized level in almost every American state.

Although the use of moot courts and mock trials is a relatively recent phenomenon in the public schools, teachers have grasped this methodology with both vim and vigour. Published articles by American public school educators echo sentiments similar to those expressed by the law school professors just a few years earlier:

Role-playing a court trial can be an especially effective means of giving students direct experience with some of the ways in which our legal institutions function. (Letwin, 1978: 61)

Ultimately, the students will develop greater insight into their own values by assuming the various roles and then comparing their values with those of other participants. They will also develop a better understanding of negotiation, compromise, and decision-making. (Katsh et. al, 1974: 28)

Success in law education of this type stresses youth participation in case studies, mock trials, and ways to manage conflicts; positive experience with law enforcement officers and members of the criminal and juvenile justice systems; examination of local delinquent or criminal acts in and out of school, studying the consequences of such actions not only in the context of the courts and jails, but in terms of the victims. (Allen, 1983: ii)

The mock trial gives students the opportunity to participate in the trial of a real or created case. It allows students to gain first-hand experience in trial procedures. Students assume roles, apply information already learned, and solve problems in the court setting. It also may serve as an evaluation tool. (Burco, 1980: 35)

The law schools moved even more slowly than the public schools in developing simulation games using role-play. Moot courts were around for 300 years before mock courts came into being, and then it took legal educators another thirty years to develop new simulation games using role-play such as "law firm simulations", etc. The public schools, on the other hand, moved at a remarkable pace in developing not just one or two, but more than a dozen, innovative practices in legal education in less than two decades. Although moot courts and mock trials have proven their worth as useful practices in the classrooms, the speed with which educators have grasped this new, exciting methodology has left a serious void, the same one that still plagues the law schools--evaluation.

In the past decade, there has been steadily increasing pressure on the public schools to teach everything from language to sex to computers. At the same time, the public has demanded that the schools become more accountable for their every move, and that they prove the value of the programs they choose to offer:

We are now in an age of accountability in education. School authorities and funding sources typically ask that programs be evaluated, and that their worth be proven by observable changes in students. So far, however, the evaluations of major law-related projects have been conducted by specialists employed by the projects themselves. Inevitably, these "in-house" evaluations are somewhat suspect, and it would be helpful to have independent evaluations of the various approaches which are now being used. (Henning et. al., 1975: 165)

Throughout the 1970s, educators were concerned with the lack of evaluation procedures for simulation games using role-play. Moot courts and

mock trials were just a segment of the growing educational simulation gaming market. As new games appeared, unaccompanied by any form of evaluation procedure, concern grew. Teachers were faced with justifying their actions, activities and evaluation processes. It became clear that unless some guidance was given for the evaluation of simulation activities, their usage as educationally sound and justifiable classroom tools would be limited.

The solution to this evaluation problem was far from simple. A clear definition of what was to be evaluated was needed, as well as how existing acceptable evaluative techniques could be developed into both effective and acceptable procedures.

The presentation and evaluation of knowledge is controlled through the use of such symbolic codes as written tests and oral presentations in well-defined instrumental procedures. It is through the mastery of those codes and techniques by the students that the school administration controls and assesses their knowledge acquisition, thus reducing all valued knowledge to 'publicly controlled' knowledge.

The private and personal component of knowledge that is evoked during the experience of game play is thus undervalued in favor of the mastering of information and skills which can be measured with these sociocultural instruments. (Saegesser, 1981:286)

Simulation gaming provides a language of communication that conveys properties and dimensions of knowledge which are not otherwise developed within the school context with the use of traditional pedagogy. (Saegesser, 1981: 292)

Progress was slow in solving the evaluation problem. Teachers and school administrators were eager to develop evaluative procedures which

would both work and be acceptable to students, teachers and the public. (Saegesser, 1981)

By 1978, there was little improvement in the situation. More simulation games using role-play appeared on the market. By that time, economic, archaeology, mathematics, science and countless other disciplines climbed on the "game bandwagon". But, still, evaluation procedures were lacking for all of these, as well as for moot courts and mock trials:

In contrast to the rapid growth in the number of games and simulations, there has been very slow progress in evaluation techniques. To give [an example], the papers presented at the first and second U.K. conferences on Computers in Higher Education dealt with a very wide range of computer-based games spanning archaeology through zoology, but most merely gave a general description of the game. Very few gave a clear definition of what the games were supposed to teach. Many contained no evaluation of their success or failure, and those which did attempt some evaluation usually confined themselves to reporting that students enjoyed them and/or the author felt the game had been useful. Almost none dealt with the concept of relative efficiency or compared the results of the games with those of other possible teaching methods. (Robinson, 1978: 6-7)

Yet educators were not daunted by this lack of evaluative instruments. By late 1978, study into the development of workable evaluation instruments was well underway. Researchers such as Romanos (1978) and Anderson (1980) provided teachers with excellent practical suggestions for developing their own evaluation techniques, applicable to whatever simulation game using role-play they might be using.

Before developing instructional materials and procedures, it will be helpful to develop a set of evaluation instruments for those short-term objectives which are practical to evaluate. These instruments should then be administered to a sample of

students from the target population. This process serves two purposes. First, it provides program developers with baseline data they can use to determine the suitability of those objectives for that population. Second, [it provides] developers with graphic examples of uninstructed students' abilities as well as a more complete and refined picture of what students will be expected to accomplish after instruction. (Anderson, 1980: 253)

The next order of business is to establish the sort of relationship with nearby schools that will permit designated staff members to visit those schools frequently to try out materials and procedures while they are still malleable. (Anderson, 1980: 253)

Ideally, evaluation procedures will be a natural outgrowth of the classroom activities, learning exercises, or instructional games. For example, children's drawings, stories, or poems may be used as an expressive learning activity, and they may also be scored for themes or schemes to assess changing concepts or attitudes. That is, pupils might be asked to write stories with illustrations concerning a crime including a policeman, a law violator, a victim, and a bystander. The instrument could be administered on a pre-post basis and scored to assess changes in children's concepts of authority, power, crime, and responsibility.

... As an additional example, students could be surveyed concerning their attitudes toward capital punishment. Following a discussion or simulation (e.g., a mock trial), another survey could be taken to assess the degree of change in attitudes and concepts related to capital punishment.

Evaluation procedures, as well as instructional activities, may also be related to the school environment and natural events and situations. For example, children's understanding of and attitudes toward school rules may be a topic of discussion and may be assessed through interviews or questionnaires. Instruments are also available to assess characteristics of the classroom climate, such as democracy, rule clarity, or authoritarianism. (Anderson, 1980: 256-57)

Although many suggestions regarding evaluative procedures have been provided by more recent authors such as Bryan (1983) much of the

development of effective instruments has been left up to the individual teacher. Research has failed to turn up any instrument which could be easily adopted, in its entirety, as an effective evaluative tool for a moot court or a mock trial. Until such an instrument is developed, these two activities will continue to be used in the American public schools as a "game" rather than a "lesson".

[Suggestions for the evaluation of moot courts and mock trials are offered in Chapter Four.]

CHAPTER THREE

Moot courts and mock trials: the Canadian experience

Students need to understand, and eventually to participate in, this process of law. Hence the school law programme should consciously try to develop their appreciation of the capacity of law for use as a problem solving tool, and their ability to take advantage of its resources.

-Kindred, 1979: 541

Many Canadians believe that they are five to ten years behind their American neighbours. When one examines Canadian contributions to the development of moot courts and mock trials over the past decade, this belief has some validity. Canadians have produced few original law-related materials. What has been produced seems to be a "Canadianized" version of existing American materials.

Another feature of Canadians is their resistance to change. Research shows that until the late 1960s and early 1970s, most Canadian law schools held exclusively onto the Langdell case study approach while viewing moot court merely as an extra-curricular activity. The mock trial is a recent addition to law school teaching methodologies in both countries. It has only

been since the late 1970s that most Canadian law schools have given academic status to moot courts and mock trials.

Until recently, law has been almost a non-entity in the Canadian public school curriculum. Since the late 1800s, Canadian schools had offered innumerable social studies courses, such as civics, citizenship and political science, which contained legal elements. Yet full-credit law courses were not offered by provincial Departments of Education until the early 1970s.

Nova Scotia was one of first Canadian provinces to embark upon a law course. The Department of Education had received a pilot course proposal as early as 1972 (Pink, 1972). However, this early pilot course suggested teachers follow a typical law school program, leaning heavily on the lecture-discussion and case study teaching methods. This meant legal education was limited to senior high school students because it was believed that lower level students were unable to grasp complex legal principles. Meanwhile, at the junior high and elementary level very little if any - effort to introduce law courses was being made.

By the mid 1970s, the lack of law-related education in the public schools had begun to concern prominent members of the Canadian legal community. One of these was the then Chief Justice of the Supreme Court, Bora Laskin, who stated on February 21, 1977:

I'm very much concerned about the lack of education in the legal process in our schools, up to and including university. It's very important to have a citizenry which is socially literate and social literacy to me involves some appreciation of the legal system. There isn't a single act that any government can do that does not have to find its source in the legal system. It's just as

important that our people have some appreciation of law as they should of English or French literature or economics. I hope that our educational authorities will pay special attention to this. (McIntyre, 1980: 1)

Six years later, in 1983, "legal literacy" was still a concern in Canada. Very little was done in the preceding five years other than the introduction of law courses in senior high school. The whole issue of legal literacy and its place in the school resulted in considerable debate within Canadian legal circles:

Legal literacy is not a catchy phrase that means that every man, woman and child should, or even could, become his or her own lawyer. Far from it. The concept behind legal literacy is a progression of assumptions that have been proven over and over in the Canadian context:

1. An individual needs an understanding of the law and the legal process in order to function effectively on a day-to-day basis and in order to carry out his or her responsibilities toward the legal system.
2. The legal process itself requires an informed and involved citizenry if it is to function democratically, and if it is to continue to ensure a legal system that is responsive to the needs, concerns and priorities of the nation.
3. The people, collectively and individually, do want and will use information on the law and legal process.

Being legally literate means that by having access to information on the law, both a knowledge of the broad principles as well as the specific rights and responsibilities, people avoid some of the more common legal problems. If a problem does arise, being legally literate will help them to recognize the legal components or potential legal solutions that exist, and help in selecting the appropriate type of legal response. Inherent in legal literacy is a strong preventative or 'wise-consumer' component.

In addition, there is another and broader meaning to legal literacy. Legal literacy both demands from the legal system a commitment to be responsive to the needs, concerns

and priorities of the citizen, and demands from the citizen a commitment to participate in the legal process. Both aspects of legal literacy are important, and both are implicit in the aims and objectives of PLEI [Public Legal Education and Information].

Legal illiteracy is a luxury we simply cannot afford. The law affects every aspect of every day of our lives. We are not only responsible to the law, we are also responsible for the law (Peck, 1983: 29-30)

Were the various public school law courses started after 1976 improving the standards of legal literacy in Canada? In Nova Scotia, the one-year Law 341 course touched on almost everything that was studied by a typical law school student in a three-year law school program. Law 341, and other courses like it across Canada, were considered watered-down versions of a law school program of studies. Since the course covered a great deal of material in a very short period, there was insufficient time for detailed examination of those legal issues such as drugs, criminal law and family law, which concerned most students. Furthermore, given a lack of teacher training and classroom resources, the effectiveness of these programs in combatting "legal illiteracy" could be questioned.

Canadian law schools were not particularly innovative before 1980, and the average law course in the public schools reflected this lack of innovation. Unfamiliar with innovative legal practices, such as moot courts or mock trials, many public school law teachers turned to their programs of studies for guidance. Yet these tended to stress older law teaching methodologies, as shown by the Program of Studies for Nova Scotia's Law 341, introduced in 1976. The following is an excerpt from the suggested list of teaching methods for public school law teachers:

- Unstructured, open ended analysis, discussion and evaluation of legal materials.
- Lectures by the teacher and note taking by the students on legal information.
- Talks by visitors who work in the legal system, with or without problems to answer, verbal or written.
- Assigned readings of legal materials, with or without problems to answer, verbal or written.
- Mimeographed legal notes prepared by the teacher and distributed for analysis in class.
- Case, statute and legal document studies and problems.
- Moots and mock trials. A moot is an argument about a contentious, but hypothetical legal issue. It is highly structured and formalized kind of discussion that allows role-playing in the guise of a court. (Nova Scotia, 1978: 27)

The description of a moot court and a mock trial, albeit brief, might have been of interest to some educators, but they would have faced problems in locating resource materials to run such an activity. Firstly, although the primary resource for the mock trial was designed by Harvard Law School (1976), it was not mentioned in the program of studies bibliography of resources. Secondly, in the extensive annotated bibliography, covering more than fifty pages, only two direct references were made to moot courts or mock trials. One was an American text and the other was an Ontario-based booklet prepared by the Faculty of Law at Waterloo University Law School. The typical classroom teacher might have viewed obtaining these materials as a difficult, if not impossible, task, especially since he or she was often teaching other subjects in addition to law. It was far easier to opt for the other teaching approaches suggested. The losers, in the end, were the students.

There were other problems faced by teachers interested in utilizing moot courts or mock trials in the classroom, since the actual guidelines for

conducting these activities came from Canadian law schools or from American legal sources. First, the law school moot court and mock trial formats leaned heavily on research, brief writing and strict, detailed procedures. This was discouraging and often overwhelming for the average teacher, who might be teaching one law course along with biology, math or perhaps geography. Second, the American sources, although good, were based on the American justice system. This meant that law teachers had to rewrite most of the material and guides in order to make them more applicable to the Canadian justice system. To further complicate the situation, the Canadian system was undergoing revision and change under the government of Pierre Elliot Trudeau - change which culminated in the repatriation of the Canadian Constitution in 1980.

Faced with changes in the legal arena, few guidelines and complicated information, most law teachers in public schools used the traditional lecture-discussion or case study approach right up until 1985. To illustrate how rare the usage of moot courts or mock trials was in Canadian public schools, it should be noted that the Roy C. Hill Charitable Foundation, which recognizes innovation in the classroom, presented an award for outstanding innovative practices in 1986 to a teacher who used mock trials in his high school social studies course.

American teachers and researchers, with the support of the American Bar Association, had started designing mock trial and moot court kits along with countless teaching aids, by 1970. In addition, they had designed, and were conducting, law courses in the public schools. By 1980, the teachers and

the ABA had established state-wide mock trial competitions in more than a dozen American states.

As was discussed earlier, few Canadian public school law courses started before the mid-1970s, and the teachers who taught them complained of a lack of materials. Moot courts and mock trials had begun to be used by the occasional Canadian law teacher after 1978, but it was not until 1980 that Canadian teachers were recognized in professional publications for using these activities in their classrooms. Even then, educators implementing these simulation games using role-play made no mention of evaluation procedures. Just as in the United States, moot courts and mock trials were seen as "games" rather than "lessons". But unlike their American counterparts, teachers in Canada made no effort to establish any province-wide competitions similar to those in the United States.

Research into Canadian public school law courses paints a relatively bleak, unimaginative picture. Canadian educators knew what they wanted to do in the schools, but did not know how to do it. This problem seems to have originated with the original "movers and shakers" in law education.

The first problem was, and still is, teacher training in law. In most Canadian schools, the mathematics teacher usually has some undergraduate and even graduate courses in mathematics; this is also the case with biology, history, English and French teachers. But this has not been the case with law teachers. Since 1976, many public school law teachers have been teaching a subject in which they had no formal training. Law school policies have contributed to this problem. Dalhousie Law School, one of the leaders in

Canadian legal education, does not offer any first-year or second-year law courses on a part-time basis; only a full-time law student is permitted to take any law course for academic credit.

This restrictive nature of the law schools and the inadequate backgrounds of the teachers was a concern of Professor Hugh Kindred, one of the designers of the Nova Scotia Law 341 course. He commented

The danger is that schoolteachers, being alert only to the law in books, will unwittingly instruct students in the rules of law alone. They may be unthinkingly unaware of the existence, not to say necessity, of law's procedural, as well as substantive, character. Truly, without substantive principles, there would be no legal standards of human conduct, rational or otherwise. Yet equally, without law's processes, there would be no way of applying them, and no way of reforming them to suit the changing times. Hence, to overemphasize principles and rules in the school law programme would be a disservice to both the students and the discipline of law. (Kindred, 1979: 542)

Law course designers such as Kindred saw the problems faced by teachers who were confronted by a strange, new course in which they lacked professional training. This lack of training forced many law teachers to restrict their classes to studying the rules rather than including the processes. Since teachers were unsure of the processes, they were reluctant to embark upon innovations such as moot courts or mock trials. Kindred and others, such as Cassidy (1980) and Dykstra (1980), offered some solutions:

Well then, what kind of legal education should be offered to teachers? Essentially the learning necessary is a knowledge of the means or process of law itself. Of course, nothing can be learned entirely in a vacuum. Thus, the legal process can only be understood through mentally handling some law. But, it probably does not matter too much what branch or fields of law are employed in the learning process, because, once so

equipped, a teacher can readily discover the principles and rules in other areas as needed.

Once the scheme of law as a process is known, the pieces to complete it can be put in place at will. It is understanding the schema that is most important, and not the pieces, i.e. the principles and rules of law. They are merely means in the process of resolving problems faced by law, and are not ends in themselves. (Kindred, 1980: 5).

Though the knowledge of lawyering may come easily, ability at it does not. Yet law as process is nothing without some competence at operation of that process. So here again, some detailed study, both written and oral, will be a necessary part of teacher training if only to encourage familiarity with legal materials by experience. (Kindred, 1980: 7)

Suggestions made by Kindred for better teacher training appear to have fallen on deaf ears. At Kindred's own law school - Weldon Law School at Dalhousie University in Halifax - a teacher still cannot take a law course for academic credit although teachers may, upon receiving permission from the Dean of Law, audit any first or second year course. In the United States, on the other hand, the American Bar Association saw effective teacher training through full credit graduate courses as critical. The ABA and other agencies have created special credit courses for teachers, using law school resources. In addition, many law schools in the United States will allow teachers to enroll in courses for academic credit.

Graduate credit is the most frequent incentive which projects [refers to those funded by the American Bar Association] offer teachers. There are substantial pedagogical benefits as well. The university's faculties of education, law, sociology and political science offer valuable resources. Moreover, as the National Commission on the Reform of Secondary Education urges, teacher-training institutes should be encouraged to provide courses for both experienced and pre-service teachers. Such a mixture of theory and experience

should lead to classes which include a variety of teaching styles and ideas about instructional methods. (Henning, 1971: 34)

The Americans were, and still are, very progressive in this field of teacher legal education, while the Canadians lagged behind. Yet the Canadian law schools claimed that they had problems serving the needs of the public school law teacher, or any other interested educator:

The problem faced by the Canadian law schools, and even some of the first-rate American law schools, is that the first-year courses which would be suitable to teacher training, are evaluated as a block of courses.

... We feel that a law student should be full-time and we are geared for that. We can handle up to 150 students in our first year courses. To put a group of part-time students in these courses would hurt the first-year students.

... Teachers should look to other courses in faculties of Arts or Commerce which may be better suited to their needs. However, we are not insensitive to the teachers, we are looking a ways to help them. Perhaps if a group of teachers wanted a summer course through Henson College [Continuing Education] we may be able to staff it.

(Interview with Dean Innis M. Christie, Weldon Law School, Halifax, 05 March 1987)

Although the law schools and course designers are now trying to provide legal education to a poorly qualified group of public school teachers, this battle has been a puzzling one. While teachers have clung to the older, easier legal teaching methodologies, struggling to understand what they were teaching, the legal community has been urging even more law-related education in Canada but refusing to provide professional training complete with academic recognition.

Yet, rather than address the need of teacher training in law or even provide teachers with useable resources, the Canadian Bar Association, in the late 1970s, took a new tack in its battle to rid Canada of legal illiteracy. Public Legal Education programs were set up to serve both schools and communities. Under this plan, the CBA and provincial Bar Associations set up offices staffed by lawyers to provide in-service training, conferences or information to any group or individual who might have a legal question or problem.

For teachers considering various legal studies curriculums, we cannot emphasize enough the need to have community involvement in the curriculum. We were very fortunate to have such support from the school committee, and a great many members of the community too numerous to mention at this time. Ultimately, it is up to you to make law a "living, breathing" thing. We stress that this means having the students reach out to the community and having the community reach out to them. *The community is the classroom for a legal studies curriculum.* (Butschler, 1983: 15)

Concern about the lack of resources for both the community and public schools was also addressed by the CBA and the various Public Legal Education centres. As a result, lawyers, with very limited involvement of teachers, began working on educational kits which were designed to solve this problem. By 1983, mock trial and moot court kits were prepared and began to circulate in Canada. Such programs included an Alberta-based senior high mock trial kit (Ferguson and Matheson, 1984), a Manitoba-designed elementary mock trial kit (Jordan, 1986) and a British Columbia mock trial kit (Craig and Noonan, 1983). In addition, a revived interest was being expressed by educators in earlier moot court and mock trial kits which had previously limited distribution. Many of these began to have wider

dissemination in the public schools. Examples of these were Bushnell (1976), DeGruchy (1976) and Macdonald (1976).

However, this flurry of activity failed to solve one problem. The designers of Canadian law courses and resources for the public schools were primarily law school professors or lawyers. There was some teacher input, but given the fact that teachers lacked legal training, it was the legal community which really steered the projects along. This resulted in many programs of study which demanded too much of both the public school teacher and the students.

Progressive members of the legal community tried to convince their colleagues of the importance of significant teacher input. As early as 1977, arguments were being made concerning the establishment of a strong link between the legal and teaching professions. This was seen as critical in order to ensure an exchange of materials and information on innovations, such as moot courts and mock trials:

The organizational issue involves the establishment of contacts with the teaching profession at the elementary and secondary school level. It is important that teachers have the material and professional resources to assist them in expanding the number and kind of law-related courses offered in the school system. While the research role of the programs will inevitably interact with government departments and law reform commissions, high priority should be given to formalizing these lines of communication. (Ianni, 1977: 9)

By 1983, teacher involvement in the production of law-related materials was at a significantly higher level than five years earlier, although the arguments for even more involvement were still going on:

We are arguing for an integrated relationship between those two very essential components in the curriculum enterprise - teachers and subject-matter specialists. Both are necessary to answer those curriculum questions about what to teach students and how to teach it to them. (Cassidy and Common, 1983: 19)

Teachers have been viewed by the Schools Program of the Legal Services Society as essential to the development of sensible, practical and relevant legal-education programs. ... Teachers obviously are not the only professional group that should be involved in the development of legal-education programs for schools. But, it needs to be recognized that teacher involvement in any curriculum enterprise for schools is indispensable. (Cassidy and Common, 1983: 23)

The design of various legal resources posed other difficulties. None of the Canadian moot court or mock trial kits examined contain any suggested evaluative procedures. Some have too little background material for the average teacher (Jordan, 1986) while others overwhelm the teacher and students with page after page of legal procedure (Craig and Noonan, 1983). It appears that both courses and kits have been designed with relatively little teacher input. The legalese and the design was left in the hands of the lawyers, while teachers involved in the project design only carried out some of the field-testing. This state of affairs was of obvious concern to many legal educators, who urged more teacher involvement:

To most teachers, curriculum materials that have considerable curriculum potential are *practical materials*. Teachers, more so than professionals in law-related fields such as lawyers or law librarians, can make materials practical. For external organizations to develop materials with a high curriculum potential, a partnership must be formed between the subject-matter experts and the teachers... (Cassidy and Common, 1983: 18)

Failure to involve teachers in the initial preparation stage of classroom resources had its price: many of these kits had limited use in the public schools. It appears that moot courts and mock trials enjoy the most use in Western Canada, where a concerted effort has been made by the legal community to inform the public school teachers of their availability. This has been accomplished by having teachers involved in all facets of moot court and mock trial resource design ranging from identifying the target grade and age groups to the selection of cases. Teachers also field tested each kit and recommended changes which were subsequently carried out insuring the kits classroom effectiveness. Finally, in Western Canada, all teachers in all schools were made aware of the availability of the final product through both in-services and the professional media.

In Nova Scotia, these kits are available at the Public Legal Education Centre in Halifax. However few educators know about them. In a "show of hands survey" of twenty-two law teachers attending a social studies workshop in Halifax on October 24, 1986, six teachers knew the moot court and mock trial kits existed, and of these, only one had used as kit in her classroom.

From 1970 until 1980, Canada's legal educators were addressing the need for law-related education in a general fashion. Unlike the United States, where Summer Institutes, conferences and workshops were being held on a very regular basis, few occurred in Canada. In Nova Scotia, only two provincial workshops dealing with the Law 341 [grade 12 law] course were held since the course's inception in 1976.

Yet, although Canada initially faced problems in its law education programs, none of these proved insurmountable. As in the United States, great strides were being made to improve the status of law-related education. The major problem in Canada was lack of professional contact between the teachers and the legal community. Both groups were operating somewhat in a vacuum. The legal community was designing resources it thought would help the teachers in the classroom but, in some cases, did not realize weaknesses in their design until the final product was produced and placed in the hands of the classroom teacher. This is now being resolved, with more and more teachers getting involved in actual curriculum design.

In Nova Scotia, for instance, two new pilot law courses at the grade 11 level are now before the Department of Education for approval. (An outline of one of these is included in Chapter Four.) The unique feature of these pilots is that they were designed by classroom teachers with minimal involvement of the legal community. This is a complete reversal of the situation ten years earlier in the province. Similarly, in other parts of Canada, educators such as McGinn (1982), Hou (1983) and Jordan (1986) are designing programs which can be integrated into existing courses. But, as was mentioned earlier, these "new" ideas are still five to ten years behind those initiated in the United States.

CHAPTER FOUR

The Source Book

One comment by the student judge at the end of his trial was, I didn't know it was so complicated.

- Lamont, 1972: 23

The following samples of materials, which have been selected--and slightly modified--from the various sources examined during the research phase of this case study, should provide educators who intend to use moot court or mock trial simulations with excellent basic background information.

| <u>Sample</u> | <u>Pages</u> | <u>Content</u> |
|---------------|--------------|--|
| 1 | 76 - 92 | Moot court and mock trial - model for each - roles - rules |
| 2 | 93 - 102 | Evaluation suggestions |
| 3 | 103 - 112 | Integration of moot court and mock trial in the public schools. - hints for educators |
| 4 | 113 - 114 | Elementary mock trial - Goldilocks and The Three Bears |
| 5 | 115 - 118 | Junior high / senior high mock trial - Regina versus Barry |
| 6 | 119 - 126 | Sample program of studies for senior high, using moot court and mock trial |
| 7 | 127 - 129 | Thirty benefits of simulation games using role-play |

SAMPLE 1

MOOT COURTS & MOCK TRIALS

MOOT COURTS: Organization

A moot court exercise requires three stages of development:

I. Preparation; II. Enactment; and III. Debriefing.

However, whereas a mock trial may take four to six forty-five minute class periods to conduct in its entirety, a moot court presentation can be completed in two to four class periods. (Gerlach and Lamprecht, 1975: 253)

Briefs:

Length: The brief shall be no longer than fifteen (15) pages inclusive of title page, table of contents and authorities, and proper appendices. Briefs will be penalized for each page over the prescribed limit. (Germain, 1973: 606)

Oral Arguments:a. Time Allowance:

Each student will be allowed 15 minutes for oral argument. All aspects of the oral argument must be completed within that time, including the statement of the facts, presentation of the arguments, questions and answers, and rebuttal. The appellant's attorney may reserve up to 3 of its 15 minutes for rebuttal. (Note: the court may in its discretion extend the time allowed for oral argument up to a maximum of 5 minutes per attorney.) (Germain, 1973: 606)

In preparing a class for a moot court enactment, the teacher should first distribute a handout outlining the facts of the case that is to be appealed. After discussing, with the class, the facts of the case and the purpose and sequence of events in an appeals case, the instructor should assign the students to one of the following groups:

(1) The panel of judges including a chief justice. The total number of judges might be either 3, 5, 7 or 9.

(2) The team of attorneys representing the petitioner. This team might consist of 2, 3, or 4 attorneys;

(3) The team of attorneys representing the respondent. This team might also consist of 2, 3, or 4 attorneys;

(4) The courtroom reporters. The remainder of the class are to serve as courtroom observers. (Gerlach and Lamprecht, 1975: 253-254)

Preparation:

Each team of attorneys should be given time to meet separately to discuss the case and prepare their written and oral arguments. Before proceeding, however, each attorney should:

- Be familiar with the sequence of events in an appeals case;
- Fully understand his or her role in the proceedings;
- Have had some exposure to and experience with the case method and analyzing legal cases;
- Have access to previous cases and court rulings involving similar or related legal questions.

At the same time, the courtroom observers and panel of judges might be assigned a series of readings or cases related to the substance or the main issue in the appeals case under study or be asked to prepare for some other activity or assignment. (Gerlach and Lamprecht, 1975: 254-256)

Debriefing:

Following the moot court presentation, class discussion might focus on some of the questions presented below:

(For the attorneys)

- (1) How did you feel as an attorney? What problems, if any, did you encounter?
- (2) What particular skills, if any, did you feel you needed? Why?

(For the class)

- (1) Did you feel that the arguments of the attorneys were convincing? Why or why not?
- (2) Did you feel that the presentations were made in an effective manner? Why or why not?
- (3) Did the attorneys react well to the questions posed by the judges?
- (4) What, if anything, would you have done differently if we were to stage the same appeals case a second time?

(For the judge)

- (1) How did you feel as a judge?
- (2) What problems, if any, did you encounter?
- (3) What particular skills, if any, did you feel you needed? Why?

(For the class)

(1) Did you agree or disagree with the judges' decision? Was it fair? Reasonable? Why or why not? (Gerlach and Lamprecht, 1975: 258)

SAMPLE 1**MOOT COURTS & MOCK TRIALS****MOOT COURTS: Roles****JUDGE:**

Powers and responsibilities:

(1) As a member of the court, you may interrupt the presentations by either team of attorneys to either ask a question or to direct the presentation to other issues.

(2) Following the oral arguments by the attorneys, the court will discuss the case. Each judge will be called on by the chief justice to express his views concerning why the lower court's ruling should or should not be overturned. In this session, it should be your goal to convince others to change their positions to agree with your own.

(3) After the case has been discussed fully by the judges, the chief justice will take a formal vote and assign the tasks of writing the majority opinion and dissenting opinions, if there are any.

(4) You may also be asked by the chief justice to give the court's decision and opinion orally to the class once the court has reconvened.

CHIEF JUSTICE:

Powers and responsibilities: You may:

(1) Extend the time limits of the attorneys' presentations if you or another judge feel it is necessary.

(2) Maintain order in the courtroom by insisting that only one individual (with judges receiving preference) speak at any one time and that all statements by the attorneys be directed to the court and not to the attorneys representing the other side in the case;

(3) Insist that each judge be initially allowed to express his or her views regarding the case without any comments or questions from the other judges after the attorneys' presentations;

(4) Provide the judges with an opportunity (after everyone has had the opportunity to speak) to question the positions of the other judges and convince the others of the merits of their own views;

(5) Take a formal poll of the judges and assign who is to be in charge of writing and presenting orally the court's majority opinion, and, if any, dissenting opinions.

PETITIONER'S ATTORNEYS: (In most moot court enactments, the defendant's attorneys):

Your courtroom presentation or arguments should attempt to show one or more of the following:

- Why you feel your client did not receive a fair trial;
- Why you feel that the law involved in the case was not constitutional;
- Why you feel that the lower court judge or another agent of the law involved in the case had exceeded his legal authority.

You may cite previous court decisions to support your position.

You may use the facts of the case to support and/or substantiate your argument.

RESPONDENT'S ATTORNEYS: (In most moot court enactments, attorneys for the respondent):

Your courtroom presentation should attempt to refute the charges of the petitioner's attorneys;

You may cite previous court decisions to support your position.

You may use the facts of the case to support and/or substantiate your argument.

COURTROOM OBSERVERS OR REPORTERS:

While viewing the proceedings of the moot court enactment, complete evaluation sheets [See Sample 2 for suggested evaluation instruments].

MOOT COURTS: Suggestions for Participants

Oral Argument ... Specific items of concern are the following:

- (1) Students should not read their oral arguments.
- (2) The speaker should maintain eye contact.
- (3) Posture is important - stand erect behind the podium, do not roam from the rostrum.
- (4) Show proper respect and deference to the bench whether a judge is perceived as hostile or friendly.
- (5) Be alert to leading questions by friendly judges or possible traps by critical members of the panel.
- (6) Prepare to respond to hypothetical situations - practice.
- (7) Be careful of pace and volume in speaking - oral argumentation is not intercollegiate debate, where speed is important.
- (8) Be alert to time limits and trim presentations where possible in order to meet them.
- (9) When the judge calls for summation, cease the argument immediately, take a moment to prepare for the summation, and then deliver the summation evenly and clearly, maintaining eye contact. (Cooper, 1979: 116-117)

SAMPLE I**MOOT COURTS & MOCK TRIALS****MOCK TRIALS: Organization**

Each of the participants in the mock trial plays the role of a participant in an actual court trial. ... Each side may call three witnesses, each of whom plays the role of a recognized authority; the witnesses must limit their testimony to recorded facts or the actual written opinions of those whom they represent. The court is opened by the bailiff (also represented by a student) who swears in witnesses and acts as timekeeper. The jury is made up of twelve persons selected from the audience.

In general, the organization of the mock-trial debate follows the arrangement below:

BAILIFF:

Calls court to order.

JUDGE:

Opens trial. Gives three minute speech on the necessary introductory material: history of the question, immediate cause for discussion; definition of terms; other material necessary to enable the audience to understand and follow the trial as it progresses.

ATTORNEY FOR THE PLAINTIFF:

Presents in a three minute speech the case to be established through the examination of the witnesses whom he will call.

ATTORNEY FOR THE DEFENCE:

(In an action against the federal government, the Attorney General):

Presents in a three minute speech the case to be established through examination of the witnesses whom he will call.

ATTORNEY FOR THE PLAINTIFF:

Calls his witnesses. After each is sworn in by the bailiff, the attorney may use four minutes for direct examination. Each witness, when his direct examination is concluded, may be asked three questions in cross-examination by the attorney for the defense.

ATTORNEY FOR THE DEFENSE:

Follows the same procedure in calling his witnesses, with cross-examinations by attorney for the plaintiff.

ATTORNEY FOR THE DEFENSE:

Presents in a three minute speech his summation and final plea to the jury for rejection of the writ or injunction sought by the plaintiff.

ATTORNEY FOR THE PLAINTIFF:

Presents a similar three minute speech of summary and final plea.

JUDGE:

Instructs the jury to decide the case strictly on the evidence, and to disregard irrelevant matter; he asks the jury to return an immediate verdict.

FOREMAN OF THE JURY:

Polls the jury and presents to the judge the verdict of the jury.

Following the announcement of the verdict, or in some cases before the announcement of the verdict, the meeting may be thrown open for general discussion, with the judge serving as chairman.

... The student who serves as judge should have some acquaintance with legal procedures; ... The mock trial provides not only an interesting variation on the older traditional forms of debate, but also a preliminary experience which may be of considerable value to students intending to study law. (Mouton, 1966: 185-186)

SAMPLE 1**MOOT COURTS & MOCK TRIALS****MOCK TRIALS: Role assignments****Judge:**

Your main job is to preside over the trial. Your tasks include the following:

(1) To make sure the trial proceeds along the determined sequence of events; and

(2) To rule on any objections by opposing attorneys and reprimand any attorney should he not behave himself properly.

You are most likely to be called upon to take action on the following:

-An attorney referring to the other side's position - generally negatively - in the opening statement to the jury. In this case, issue a warning/ask the jury to please disregard the remarks.

-An attorney harassing the others side's witnesses. This might include (a) actually calling them "stupid" or "dishonest" or implying that they are, and (b) terming their answers to certain questions as "ridiculous", "foolish", "untrue". In these cases, generally wait for an objection, then issue a warning and ask the jury to disregard the comment.

-An attorney asking the other side's witnesses leading questions. This would include asking such questions as "Isn't it a fact that _____?" or "You didn't see that, did you?" In this situation, after hearing an objection, ask the attorney to rephrase the question if he wishes and instruct the jury to disregard the question.

-An attorney arguing with another attorney or with a witness. In this case, order the attorney or attorneys to stop.

(3) To maintain proper order in the courtroom, (talking among jurors, witnesses, and observers should not be permitted);

(4) To instruct the jury as to what the law is and what they must do to make a decision following the closing statements by the attorneys: (Gerlach and Lamprecht, 1975: 237)

Attorney Teams:

Each team will have the opportunity to:

(1) Make an opening statement to the jury;

(2) Question its own witnesses;

(3) Cross examine the witnesses of the other team of attorneys;

(4) Present a closing argument to the jury.

-In making your opening remarks or statement to the jury:

- (1) State clearly and concisely what you intend to prove or show;
- (2) Describe how your witnesses' testimony will support your arguments;
- (3) Emphasize your position and ignore that of your opponents.

-In questioning your own (friendly) witnesses:

- (1) Have prepared clear and concise questions;
- (2) Stress obtaining information that will only help your case;
- (3) Have your witnesses prepared to answer your questions directly/clearly/ concisely (discourage rambling on or excessive talk by the witnesses).

-In cross-examining the other team's (hostile) witnesses:

- (1) Try to obtain information that will help your case;
- (2) Use questions to point out any inconsistencies or contradictions in the witnesses' testimony and to raise doubt in the minds of the jury concerning particular witnesses' credibility;
- (3) Avoid comments or remarks that might be threatening to a witness and make you appear hostile or unfair;
- (4) You may not ask the other team's witnesses to answer leading questions (i.e. "Isn't it a fact that _____?" or "You didn't really see that, did you?")

-Should you harass a witness or ask a friendly witness leading questions, you can expect the other attorneys to object and the court to rule in their favor. You should do likewise if you feel the other attorneys are engaging in improper conduct.

-In presenting your closing arguments to the jury:

- (1) Outline clearly and concisely for the jury the testimony that has supported your case;
- (2) Indicate to the jury what it might conclude on the basis of the evidence that has been presented. (Gerlach and Lamprecht, 1975: 238-239)

Witnesses:

General behavior and suggestions:

- (1) It is best to stick closely to the information contained in the script you have received.
- (2) The script represents your sworn testimony and is what the other side's attorney's will expect you to say in court.
- (3) Memorize the information contained in the script for you will not be able to refer to it during questioning.

(4) If you say something that does not agree with the information contained in the script, the other side's attorneys are sure to point out the contradictions or inconsistency between your sworn testimony and what you have stated in court. This is likely to lessen your credibility with the jury and weaken your case. (Gerlach and Lamprecht, 1975: 239)

Jury Members:

General behavior and suggestions:

(1) It is essential that you listen carefully to what is said in court during the proceedings.

(2) When you are asked to consider a verdict, you should consider the case on the basis of:

- What the judge has instructed you to decide;
- What you think the evidence has shown.

(3) After the judge's instructions to the jury, you will be seated in a circle. The jury foreman will ask each member of the jury how he or she feels about the case and why he or she has taken a particular position. No discussion will be permitted until the entire jury has had an opportunity to speak. The jury foreman will then permit discussion and questions. Finally, he or she will take a formal vote by secret ballot and report the results to the court. (Gerlach and Lamprecht, 1975: 240)

Debriefing:

In debriefing a mock trial, the aspects of the enactment which an instructor might emphasize in the ensuing class discussion include an analysis of:

- The experiences and feelings of the participants;
- The roles of the actors and procedures found in the courtroom drama;
- The legal case itself.

Some pivotal questions that might be used to promote class discussion and student analysis of the enactment are presented below:

Who are the major characters or participants in a trial?

What do you think is the purpose or function of each? Is each important? How are the functions of each participant related?

How did you feel in playing the role of _____?

How well did the participants in the mock trial fulfill their roles?

What would you have done differently?

What are the major events (parts) in a trial?

In what order do these events occur?

Is each part or event in a trial important? Why or why not?

With what crime were the defendants charged?

What legal questions or issues were raised by the case?

What arguments did the defense present?

What arguments did the state [prosecution] present?

What evidence did the state [prosecution] present in support of its arguments?

What evidence did the defense present in support of its arguments?

Do you feel the defense made a good presentation? Why or why not?

Do you feel the state [prosecution] made a good presentation? Why or why not?

What facts or arguments were not presented? Why?

Did you feel the judge was fair? Why or why not?

Did you feel the jury was fair? Why or why not?

What seemed to influence the jury the most? the least? Why?

Did you agree or disagree with the verdict? Why?

If the jury returned a verdict of guilty, do you feel that the defendant might have grounds for appeal? Why?

(For further study and discussion)

How does the case presented in the enactment differ from:

(a) an appeals case

(b) a civil (criminal) case

Do you believe that our trial system helps insure a defendant a fair trial? Why?

What changes, if any, would you recommend be made in the system? Why? (Gerlach and Lamprecht, 1975: 245-246)

MOCK TRIALS: CROSS-EXAMINATION -- Suggestions for Students

The purposes of cross-examination can be grouped into a fourfold classification: (1) to permit the gathering and clarifying of information; (2) to facilitate the examination of data; (3) to expose weaknesses in analysis; and (4) to undermine the credibility of the respondent. (Ziegelmueller, 1975: 215)

Nine guidelines assist the questioner in controlling the cross-examination situation in order to achieve his substantive goals: (1) the questioner should first determine the appropriate method of refutation to use; (2) questions should be phrased to elicit factual rather than interpretative responses; (3) questions should be phrased so that the respondent is asked to provide the fact rather than to confirm it; (4) lines of questions rather than isolated questions should be prepared; (5) analogies and parallel situations may be used in guiding the respondent to the desired conclusion; (6) the questioner should not seek to elicit admissions to broad, general conclusions; (7) the questioner should be prepared to cut off a respondent if he is overqualifying an answer; (8) the questioner should be prepared to drop a line of questioning when it isn't getting anywhere; (9) the admissions gained through cross-examination should be used as a basis for developing arguments in the formal speeches which follow.

Five guidelines assist the respondent in contributing positively to the dialogue while maintaining his basic analysis of the question under consideration: (1) the respondent's answers should be consistent with his total analysis of the controversy; (2) the respondent should be prepared to provide obvious answers; (3) the respondent should be prepared to admit ignorance when he does not know the answer to a question; (4) if the answer must be qualified, the respondent should qualify the answer before answering it directly; (5) the respondent should attempt to see that the questioner does not draw conclusions or make speeches during the question session... [T]he questioner should appear pleasant, fair, and sure of himself. The respondent, on the other hand, should appear open and honest with nothing to fear, creating the impression that he welcomes the chance to explain his position. (Ziegelmueller, 1975: 225-226)

SAMPLE I

MOOT COURTS & MOCK TRIALS

Rules governing the conduct of the Academic Court
 (Bryan, 1983: 129-131)

I. The Trial**A. TIME:**

| <u>ACTIVITY</u> | <u>TIME ALLOCATED</u> |
|--|-----------------------|
| 1. Introductory Remarks by the Court | 2 minutes |
| 2. Prosecution's Opening Remarks | 10 minutes |
| 3. Defense's Opening Statement | 10 minutes |
| 4. Prosecution's Case | 60 minutes |
| 5. Recess | 5 minutes |
| 6. Defense's Case | 60 minutes |
| 7. Recess | 10 minutes |
| 8. Prosecution's Closing Statement | 5 minutes |
| 9. Defense's Closing Statement | 5 minutes |
| 10. Court's Charge to Jury | 3 minutes |
| 11. Jury Deliberation | - minutes |
| 12. Verdict and Closing Remarks by Court | 5 minutes |

B. EVIDENCE:

1. Evidence may be presented through: (1) examination of witnesses, (2) presentation of affidavits. There are three categories of witnesses:

(A) "Role-playing" witnesses. These are students who play the role of another person for the purpose of presenting evidence.

(B) "Real" witnesses appear on the strength of their own expertise.

(C) Student witnesses - members of a team who, because of their research, claim to be experts in a particular area.

Affidavits are signed statements of witnesses who cannot be present at the actual trial, but from whom testimony is solicited especially for the trial. These must be witnessed by a lawyer or an officer of the court.

2. Witnesses may display visual aids in presenting their testimony. These must be labelled "exhibits" and presented to the court and to the opposition for inspection and validation as they are introduced.

3. Any evidence presented to the court by witnesses, such as letters from another person, data, books, etc., must be labelled "exhibits" and presented to the court and to the opposition for inspection.

4. Affidavits must be presented by a member of the team, who is acting as a witness, and must be signed by the person to whom they are attributed.

C. CROSS-EXAMINATION

1. The opposition will receive at least two minutes, and no more than five minutes, for the cross-examination of witnesses.

2. Witnesses may be cross-examined only on the subject matter that has been covered in direct examination.

D. CLOSING STATEMENTS

Teams may introduce no new evidence or differing interpretations of the facts during their closing statements. In other words, they may only summarize their own presentations, but may deal with the opposition's case as they see fit.

E. COURTROOM BEHAVIOUR

1. Under no circumstances may members of opposing teams address one another while the court is in session. All questions, objections, etc., raised by an attorney must be directed to the court. Answers to objections or questions by the opposing attorney must be given only to the court and may be only given by request of the court.

2. Witnesses will always be treated with courtesy.

3. Absolutely no comments will be directed to the court unless requested by it.

4. Intra-team discussion is allowed if, in the opinion of the court, it does not disturb the courtroom.

5. Under no circumstances may team members communicate with anyone in the courtroom (except members of their own team), either verbally or in writing, while the court is in session. They may, however,

leave the courtroom while it is in session, to communicate with another member.

6. Under no circumstances and at no time may members of either team communicate in any way with members of the jury, from the time the jury is chosen until the end of the trial. The court must deal with such cases harshly. Penalties should be severe.

F. PENALTIES:

1. Contempt of Court. Violation of any of the above may result in a charge of "contempt of court". The penalty for a charge of contempt will be ten points off the final score for the trial for every member of the team. If the team, for instance, earns one hundred for the trial (which means they win the case) and is then charged with contempt, the final grade will be ninety).

2. Perjury. If, in the opinion of the court, false evidence is knowingly given, a charge of perjury will be assessed against that team. All members of the team will lose ten points for the trial. Charges of perjury must be brought by the opposing team. If the court concludes that the charge is obviously unreasonable and has been brought for clandestine reasons, the team bringing the charge will be assessed the penalty for perjury. All assessments of guilt will be made by the court after the trial is over.

G. OBJECTIONS:

Objections to testimony can be raised on grounds linked to a violation of the rules of the court.

H. DIRECT EXAMINATION:

Direct examination must be relevant to the charges.

II. THE JURY:

- A. The jury will consist of seven members.
- B. The jury will be chosen at random from the members of the student body.
- C. A majority will decide the case.
- D. Jury deliberation will be held in private.
- E. The vote of the jury will be either "innocent" or "guilty".
- F. The vote will be taken by secret ballot of the jury members after deliberations are over.

III. WITNESS LISTS:

Each team may eliminate one witness from their list at any time if need be. All other witnesses must appear. Each team may call "one surprise" witness if it wishes. Each team must present at least three witnesses. A witness' failure to appear means a loss of two points. Lists must be presented to the opposing team on schedule. Failure to do so will mean the loss of five points.

IV. EXTRA COURTROOM BEHAVIOUR:

All participants are expected to obey civil, moral and university law. However, the court takes no responsibility for "dirty tricks", etc. In other words, espionage and other activities conducted outside the courtroom during the project, while deplored by the court, will not be punished by the court. We leave that up to God, the State (Provincel), and the university (school).

VII. WITNESSES (Amendments to Section III):

A. No team may call more than five witnesses, two of whom must be student witnesses.

B. Prior to the time the charge is finalized, no hard rules apply to the contact of witnesses. However, the Court requests that the teams use discretion and do not camp on the doorstep of busy people.

C. After the charge is finalized and prior to the time the witness lists are finalized, a prospective witness may be contacted only twice:

1. To determine if the prospective witness will testify.

2. Once more only if the witness agrees to appear for that team.

D. After the final witness list is published, witnesses may be interviewed only once by members of either team. Witnesses who will appear for a team may be interviewed for thirty minutes. The other team witnesses may be interviewed for fifteen minutes. If witnesses ask a team to stay longer, they may.

E. The rules on witness interviews do not apply to the parents of any member of the team for whom they will testify.

F. The court must be informed of all prospective witnesses prior to the selection of the jury. This includes surprise witnesses. Surprise witnesses must be identified to the court before the jury is drawn.

SAMPLE 2

EVALUATION OF MOOT COURT & MOCK TRIAL

1983 Utah Mock Trial Competition
Performance Rating and Comments

Names of Panel Judges:

Date: _____

(1) _____

Plaintiff: _____

(2) _____

Defendant: _____

(3) _____

In deciding which team (attorneys and witnesses) has made the best presentation in the case you are judging, we ask you to use this form to evaluate each team's performance.

For each of the eleven performance standards listed below, please rate each team according to the scale provided. Circle your rating below each question. Space is also provided for you to make comments on each item relative to strengths and areas for improvement (on forms used during the actual competition).

Scale: 5 = Superior 4 = Good 3 = Average
 2 = Below Average 1 = Poor

ATTORNEYS

1. For the opening statement, the attorney provided a clear concise description of his/her team's side of the case, and included appropriate facts and issues.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

2. On direct examination, attorneys utilized questions which required straightforward answers and brought out key information for their side of the case.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

3. On cross-examination, attorneys were able to bring out contradictions in testimony and weaken the other side's case without becoming antagonistic.

PLAINTIFF (Circle One)
1 2 3 4 5

DEFENDANT (Circle One)
1 2 3 4 5

Comments: _____

Comments: _____

4. Throughout the questioning of witnesses, attorneys utilized properly phrased questions and exhibited a clear understanding of trial procedures.

PLAINTIFF (Circle One)
1 2 3 4 5

DEFENDANT (Circle One)
1 2 3 4 5

Comments: _____

Comments: _____

5. Objections made by attorneys were well reasoned and appropriate.

PLAINTIFF (Circle One)
1 2 3 4 5

DEFENDANT (Circle One)
1 2 3 4 5

Comments: _____

Comments: _____

6. During the closing statement, the attorney made an organized and well-reasoned presentation summarizing the most important points for his/her team's side of the case and stated applicable law correctly.

PLAINTIFF (Circle One)
1 2 3 4 5

DEFENDANT (Circle One)
1 2 3 4 5

Comments: _____

Comments: _____

WITNESSES:

7. Witnesses were believable in their characterizations and convincing in their testimony.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

8. Witnesses' answers to questions exhibited a thorough understanding of the case.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

9. Witnesses responded appropriately and clearly to questions posed to them under cross-examination and did not deviate from their affidavits.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

TEAM

10. Team members were courteous, observed general courtroom decorum, and spoke clearly and distinctly.

PLAINTIFF (Circle One)

DEFENDANT (Circle One)

1 2 3 4 5

1 2 3 4 5

Comments: _____

Comments: _____

f1. Team members kept their presentations within the prescribed time limits, with all team members involved in the presentation of the case.

| | |
|------------------------|------------------------|
| PLAINTIFF (Circle One) | DEFENDANT (Circle One) |
| 1 2 3 4 5 | 1 2 3 4 5 |

Comments: _____

Comments: _____

TOTAL SCORE FOR TEAMS
(Maximum of 55 points)

PLAINTIFF TOTAL DEFENDANT TOTAL

Winner on the Merits: _____

SAMPLE 2. EVALUATION OF MOOT COURT & MOCK TRIAL

Examinations:

There is one short exam two weeks after the beginning of the course and an optional final examination.

Papers:

Two short papers are required. These take the form of trial briefs; they are not research papers but rather analytical-descriptive demonstrations and/or argumentative expositions.

Team-Generated Requirements:

Students and their colleagues may decide to do innumerable projects. Teams are required to write two preliminary trial briefs and two final trial briefs.

The following scoring scheme is suggested for each team:

| | Trial 1 | Trial 2 | Total |
|-------------------------|-----------|-----------|------------|
| The Jury's Verdict | 50 | 50 | 100 |
| Colleagues' ratings | -- | -- | 40 |
| Early Exam | -- | -- | 20 |
| Individual Trial Briefs | 10 | 10 | 20 |
| Team Trial Briefs | | | |
| Preliminary | 5 | 5 | 10 |
| Final | 5 | 5 | 10 |
| TOTALS: | 70 | 70 | 200 |

Every member of the team who wins a case automatically receives 50 points. In other words, if one team wins both trials every member of that team will win one hundred percent (A+) on one-half of the course. Every member of the team which loses a case will get at most thirty points (sixty percent D-). If the "judge" (the instructor) so rules, it could be substantially less. By grafting a full eighty percent of the grading system (the trials plus team briefs and colleague rankings) to team (organizational) grades, one forces the student to think in organizational terms, which, of course, prepares him or her for organization life in public administration.

At the end of the semester, team members are asked individually to rank privately the performance of each team member on a scale of one to

ten. The average score (discarding the highest and lowest) counts for forty points (twenty percent of the course).

Each team member must write his or her own trial brief for each trial, indicating his contribution to the team effort. These are worth ten points each. Finally, each team must produce a preliminary and a final brief for each trial. Briefs are worth twenty points and each member of the team receives the grade awarded.

Thus the grading system is eclectic in that it stresses group performance but does not overlook individual effort. It involves both written and oral work and measures such items as class attendance and participation through colleague rankings. (Bryan, 1983: 129).

SAMPLE 2**EVALUATION OF MOOT COURT & MOCK TRIAL**

Courtroom Observers or Reporters:

While viewing the proceedings of the moot court enactment, complete the following evaluation sheet:

EVALUATION SHEET

1. Indicate your opinion on the following and give an explanation of each number you assign:

Quality of the presentation made by the petitioner's attorneys:

Arguments
Convincing 1 2 3 4 5 Not Convincing

Mannerism
Good 1 2 3 4 5 Poor

Reactions to the Judges' Questions
Good 1 2 3 4 5 Poor

Quality of the presentation made by the respondent's attorney:

Arguments
Convincing 1 2 3 4 5 Not Convincing

Mannerism
Good 1 2 3 4 5 Poor

Reactions to the Judges' Questions
Good 1 2 3 4 5 Poor

Quality of the court's decision:

Reasonable 1 2 3 4 5 Unreasonable

Fair 1 2 3 4 5 Unfair

Agreeable 1 2 3 4 5 Disagreeable

(Gerlach and Lamprecht, 1975: 253-254)

SAMPLE 2

EVALUATION OF MOOT COURT & MOCK TRIAL

University of Kentucky College of Law
First Year Moot Court Program - Score Sheet - Brief

Attorney for (Appellant) (Appellee):

CASE NAME: _____

Attorney's Name _____

DATE: _____

JUDGE: _____

Consider and please comment on the following:

Analysis of Issues and Authorities:

Logical Arguments:

Thoroughness of Research:

Grammar, Usage and Self-Expression:

Neatness, Form and Citation Accuracy:

Other Comments:

I would rate this brief:

Excellent

Good

Fair

Poor

(Germain, 1973: 610)

SAMPLE 2

EVALUATION OF MOOT COURT & MOCK TRIAL

University of Kentucky College of Law
First Year Moot Court Program - Score Sheet - Oral Argument

Attorney for (Appellant) (Appellee):
 Attorney's Name _____

CASE NAME: _____
 DATE: _____

JUDGE: _____

Consider and please comment on the following:

General Effectiveness and Overall Courtroom Demeanor:

Persuasiveness and Speaking Ability:

Arguments and Reasoning:

Knowledge of the Law:

Response to Questions from the Bench:

Other Comments:

I would rate this oral argument:

Excellent

Good

Fair

Poor

(Germain, 1973: 611)

SAMPLE 2 EVALUATION OF MOOT COURT & MOCK TRIAL

GRADING FACTORS

| | Strong | Adequate | Weak | |
|---|--------|----------|------|--|
| ISSUE: | | | | |
| General understanding | | | | |
| Critical characteristics identification | | | | |
| Planning process understanding | | | | |
| ROLE: | | | | |
| Description | | | | |
| Relation to case study | | | | |
| Point of view advocated | | | | |
| Viewpoint justification | | | | |
| Completeness of arguments | | | | |
| SIMULATION: | | | | |
| Completeness of description | | | | |
| Accuracy of statements presented | | | | |
| Critical evaluation of process | | | | |
| Critical evaluation of decision | | | | |
| SOURCES: | | | | |
| Adequacy | | | | |
| Completeness | | | | |

(Adapted from Simulation & Games, Vol. 9 No. 1, March 1978
by Michael Romanos.)

SAMPLE 3

INTEGRATION OF MOOT COURT AND MOCK TRIAL INTO THE PUBLIC SCHOOLS

...[J]ust as it is not sufficient for those who are erecting a building merely to collect stone, abundant though the matter may be, it will merely form a confused heap unless arrangement is employed to reduce it to order and give it connexion and firmness of structure.

Quintilian
(Bosmajian, 1985: 454)

American educators such as Anderson (1980) suggested that moot courts and mock trials follow a pattern no different from any other course of study. He recommended that a simplified mock trial be used at the elementary level [kindergarten to grade 6], utilizing simple activities based on daily activities or nursery rhymes such as "Jack and the Beanstalk". (Jordan, 1986)

At the junior high level [grades 7 to 9], a more detailed mock trial is suggested, following, in a general sense, either a prepared kit such as "Regina versus Barry" (Craig and Noonan, 1984) or the example set by the law schools as suggested by the Harvard Law School Board of Student Advisors (1976) or Susan DeGruchy (1976). However, it is recommended that teachers should deal with issues that both affect and interest the students at this level.

Finally, in senior high [grades 10 to 12], a mock trial with as much detail as possible, following very closely the law school model, was

recommended. It was only at this level that moot court was suggested, given its high demand for research, brief writing and oral presentation.

Canadian educators agreed with this format, and by 1980 reported that it had been put into practice in at least one Canadian province:

After going over briefly the opportunities offered by the Ontario K-12 curriculum for the integration of law-related content, [one of the] several findings which were made from developing instructional units for classroom teachers was:

Make students' age-bias work for learning.

- In Grades 3-6, stress the personal-personnel side of law. In Grades 7-10, stress criminal law. Deal with civil law in senior Social Science or full-year courses. (Carnew et al., 1980: 69)

However, it appears from the research and discussion in chapters two and three, that although various prepared kits and activities were made available to educators, these seem to have been prepared primarily by members of the law community. Only recently have teachers been actively involved as the primary designers and developers of legal resources. Even members of the Canadian legal community have expressed this concern:

There was consensus that teacher input must be solicited at the outset. This feeling, based on numerous experiences across the country, has developed in recognition of the fact that the production of materials for use in schools is very different from the production of materials for general use. And, it was felt, only a teacher can provide the required perspective, which must be taken into account for the successful production of materials to be used in schools. (Fruman, 1980: 71)

Until more teachers get involved and more teacher-designed materials are available, it is recommended that teachers develop their own materials.

Although this may seem like a massive project, many researchers suggest that it is not as difficult as it seems. In fact, it is merely a step by step process, as suggested by Adams (1973):

In designing a simulation game it may be useful to follow these steps:

1. Choose the purpose or goal of the group. (Involve students at the earliest point possible.)

2. Make an inventory of available resources such as space, time [both student's and teacher's], and equipment needed.

3. Choose a real situation that students relate to. Discover the structure of that situation and the rules which govern behavior in it. Set the time and place of the actions.

4. Make a model of that situation. Include rules governing the actions of the players - what they can and cannot do. The payoff or end result of the game should also be determined at this point. This payoff, whether it be winning or whatever, should be realistically related to the real-life concepts that the game is supposed to represent.

5. Identify who will play the game and how many players are needed. Is there a minimum or maximum number of participants? Are the players working individually or in groups? Are they simulating individuals or groups?

6. Set specific conditions for the participants within the framework of whatever is being simulated. This would include the role or function of each participant and possibly objectives of that role. Use real world terminology wherever possible. (Adams, 1973: 29-30)

Finally, when applying this or any other design process to moot courts or mock trials to be used in the public schools, Anderson (1980) notes that

the following should be taken into consideration as a starting point for themes or topics:

1. Rules and laws influence our daily lives.
 2. Rules and laws can encourage fairness and help settle disputes.
 3. Conflict creates a need for rules and laws.
 4. Rules and laws may vary from setting to setting/ situation to situation.
 5. Rules and laws protect people, property and ideas.
 6. Rules and laws are developed through interaction of persons as individuals or in groups.
 7. Laws provide for the needs of people.
 8. Rules and laws reflect a society's values.
- (Anderson, 1980: 111)

There is, however, one danger in designing your own moot court or mock trial: overdoing your design. This means that you strive too hard to make it as realistic as possible. Although this may seem like an admirable and educationally-sound notion, it could overwhelm the students and even "take the fun out" of what you had hoped to be an exciting classroom exercise.

The key point to remember in simulation design is to keep it simple; this rule applies both to issues and to choices of action. (Edwardson, 1981: 235)

Don't forget that the objective is not the precise replication of an actual trial but a learning experience for you, your students, and even for any resource persons who may be helping out. The emphasis shouldn't be on perfection, but on a nonthreatening exercise with plenty of time for debriefing, enabling the class to go over key points in the trial and better understand the whole experience. To put it another way, don't forget that mock trials should be both fun and a learning experience. (Arbetman, 1978: 48)

Another consideration is the difference between a moot court and a mock trial. Both follow a similar format as was discussed in detail in chapter one:

As with a mock trial activity, a moot court exercise requires three stages of development: I. Preparation; II. Enactment; and III. Debriefing. However, whereas a mock trial may take four to six forty-five minute class periods to conduct in its entirety, a moot court presentation can be completed in two to four class periods. (Gerlach and Lamprecht, 1975: 253)

However, one must remember that moot court primarily teaches: 1. The Art of Briefwriting; and 2. The Art of Oral Advocacy (Gaubatz, 1981: 97). Moot court, by its traditional legal structure, teaches students the rudiments of legal research, lets them experience the problems and interesting facets of current constitutional debate, and permits them to develop skills in oral and written argumentation (Cooper, 1979: 106). It has been proven by the research that this very academic format is suitable for the law schools. However, its effectiveness at the senior high level is questionable in that no research studies appear to have been conducted to date.

However, several "hints" to educators who intend to use simulation games involving role-play in their courses are noted and presented here. These are conclusions reached by legal educators and researchers based on their own experiences using either moot courts or mock trials in their classrooms:

HINTS FOR USING MOOT COURTS AND MOCK TRIALS IN PUBLIC SCHOOLS:

I. TIME:

It is also recommended that role-playing programs be extended [at the elementary level] over a period longer than ten weeks; an entire semester might be an alternative. (Leyser, 1979: 166)

Over loading is a no-no.

- In the Junior and Intermediate Divisions, units that run about six weeks seem to work better than more exhaustive studies.

- Even six-week units need to be broken down further into small one- big-idea sub-units that can be moved around the schedule with ease to accommodate special circumstances. (Carnew et. al., 1980: 69)

- ...[T]he scenes must not go on too long: one to five minutes is usually sufficient. (Robinson, 1980: 385)

2. YOUR CLASS: EDUCATIONAL NEEDS:

Devise, or find, a simulation that fits your needs, *both educational and practical*. It is no good running a magnificent exercise that upsets your work with other teaching groups for a month or more. (Megarry, 1977: 25)

3. PREPARATION BY THE TEACHER:

Do not forget that it is imperative to organize the follow-up work as well as the simulation itself. (Megarry, 1977: 25)

Try to decide in advance what is to be done if someone is tending to disrupt a group. One technique I have found to work is to join the group yourself for a time and try to help the confidence of the weaker members by encouraging and reflecting the expression of their feelings. If you feel you must remove the offender, try to do it within the terms of the simulation. (Megarry, 1977: 25)

Organise your preparation and your reprographic work well in advance. If you are going to ask outside agencies for help, the sooner they know about it the better. (Megarry, 1977: 25)

4. DEBRIEFING / FEEDBACK:

The postgame discussion or debriefing is widely regarded as essential for maximum (or even correct) learning to occur. ... This is the point at which generalizations and symbolic meaning are generated out of players' concrete experiences. (Bredemeir and Greenblat, 1981: 310)

Set aside sufficient time for debriefing what happened in the trial. The debriefing is the most important part of the mock trial exercise. It should bring the experience into focus, relating the mock trial to the actors and processes of the ... court system.

Students should review the issues of the trial, the strengths and shortcomings of each party's case, and the broader questions about our trial system. (Arbetman, 1978: 48).

Feedback must be prompt and reasonably specific in order to be meaningful to the students. (Matton, 1982: 51)

5. CORRECTING MISTAKES:

However, there are two very important problems: correction - how and when to correct mistakes without disrupting the flow of action and language; and participation - how to involve the rest of the class in a scene being played by a very small number, say from one to four. (Robinson, 1980: 385).

Don't interrupt the trial to point out the errors. If a witness comes up with an off-the-wall comment, or if a student playing attorney fails to raise an obvious objection, let it go. Wait until the debriefing, when you'll be able to put the whole exercise into perspective. (Arbetman, 1978: 48).

6. USE TOPICS WHICH ARE POPULAR:

Another feature of moot court programs which causes some concern is that this type of simulation works best if it deals with subject matter presently the focus of popular attention, rather than through the use of a fictitious case which may be used repeatedly. (Cooper, 1979: 105)

Materials should be chosen that will be truly meaningful to a class. They should be within the students' capabilities,

maturity level, and realm of interests. Also, they should make a worthwhile contribution to instruction by conveying significant information, by promoting student understanding of key concepts or processes, or by furthering the development of important thinking skills. (Gerlach and Lamprecht, 1975: 215)

7. PRESENTATION:

Try to present your scenario as excitingly as possible, using any audio or visual aids available. Use plenty of maps and plans. At all costs, avoid presenting the child with a great typewritten wedge of material. (Megarry, 1977: 25)

Research studies indicate that these activities often produce high degrees of student interest in the subject matter under consideration. This can be attributed to the fact that simulations, games, and role-playing exercises present material to the class in a manner that is not only exciting and enjoyable but refreshingly different from the traditional approaches to instruction. (Gerlach and Lamprecht, 1975: 214)

8. CLASSROOM ORGANIZATION:

When a simulation game is presented in class, the spatial arrangement of the tables and chairs should be modified not only to organize a spatial environment more adapted to the expected individual and group activities, but also to disrupt the established order, and to facilitate the creation of a framework from which the new activity will be positively received. (Saegesser, 1981: 285)

If your exercise is going to involve physical reorganization of classrooms or work space, try to get it done before the pupils taking part arrive. Nothing spoils the role-playing atmosphere more quickly than five minutes of furniture shifting. (Megarry, 1977: 25)

It is often necessary to encourage the pupils to carry out a secret plan in the corridors. (Saegesser, 1981: 285)

Preferably organise separate rooms for each working group. If this is impossible then it is important to separate them somehow, perhaps with screens. (Megarry, 1977: 25)

It is important to hold the trial in a real courtroom, which, in itself, presents a problem with scheduling and sometimes transportation. Once in a courtroom, however, two problems emerge. One is how to display evidence (charts, graphs, etc.) so that it can be seen both by the jury and the audience. The second, more serious, is where to position the teams. There is a suspicion that the team sitting nearer to the jury has an advantage! (Bryan, 1983: 132)

9. GROUPS AND GROUP SIZE:

Simulation games are without question group events - a player has to participate with somebody. Other players give him cues and support. The small group that the player is working with influences nearly every aspect of how he decides to handle a simulation; whether he sees the whole thing as being a waste of time, or whether he takes it serious and becomes involved. (Adams, 1973: 20)

Groups should not be too large. I think eight is the absolute maximum. (Megarry, 1977: 25)

Teams of three to five students generally foster more involvement than larger or smaller teams. (Gentry, 1980: 458)

The results of this study tend to support the conclusion that smaller groups [two or three members] work better than four member groups in a simulation game in terms of minimizing group dissension. (Gentry, 1980: 458-459).

10. INDIVIDUAL AND GROUP ASSIGNMENTS:

Certain rules must be followed in role-playing. One, the student must never 'become' the role; this is dangerous for him and others. He must be in it enough for it to seem real, and outside of it to control and talk about it. (Robinson, 1980: 385)

Whatever method you use for groupings, try to make sure that there is at least one person in each group whom you consider to have the potential to be a democratic leader. (Megarry, 1977: 25)

What is essential is that the role-playing should be useful and that all members of the class should participate. (Robinson, 1980: 385)

11. EXTERNAL FACTORS:

Finally, recognise and use the fact that simulations draw together numbers of agencies which rarely have an excuse to co-operate in an educational situation. For instance, youth leaders in this simulation were of great value, and I think they found the experience useful too; all this quite apart from introducing to the concept of the youth club some children normally superbly impervious to youth club propaganda. (Megarry, 1977: 25)

12. REWARDS:

Students who perform in outstanding fashion in Practice Court become student evaluators and judges in this course. (Matton, 1982: 51)

A still more significant reward for moot court participation is recognition of the program in placement. Every year, I have had students offered attractive employment as a direct result of their moot court participation. (Gaubatz, 1981: 106)

Moot court is a difficult and time-consuming project. Students who participate deserve some recognition beyond the grade they receive for their efforts. The author sends letters to the students' parents which are prepared while the students are touching up their briefs. These letters are mailed just after the oral argument. (Cooper, 1979: 117)

SAMPLE 4

TYPICAL ELEMENTARY MOCK TRIAL

Great Big Bear vs. Goldi Locks

Excerpted from Eyster (1978)

Reason for Trial:

Breaking and Entering.

Characters:

Judge, Great Big Bear - plaintiff, Goldi Locks - defendant, two lawyers for the plaintiff, two lawyers for the defendant, Middle Sized Bear - 1st witness for the plaintiff, Little Wee Bear - 2nd witness for the plaintiff, Lola Locks - 1st witness for the defendant, Kandy Kane - 2nd witness as a character witness for the defendant, 12 jury members, clerk (optional), reporter (optional).

The Facts:

On September 20, 19____, Great Big Bear, Middle Sized Bear, and Little Wee Bear returned to their home to find the front door open. The latch had been broken.

After they entered their home, they found their porridge had been disturbed. Next they noticed someone had tampered with their chairs. One chair had been completely broken. On entering their bedchamber they found a little girl with golden locks in one of their beds. On seeing the three bears, the girl ran from the house.

Testimony of the Plaintiff, Great Big Bear:

On September 30, 19____, I returned to my home to find the lock on the front door had been torn off and the door was open. When I entered the house someone had eaten our porridge, sat in our chairs, and slept in our beds, where we eventually saw a girl with golden locks.

Testimony of Middle Sized Bear, 1st witness for the Plaintiff:

My husband, child and myself went for a walk because the porridge I had cooked for us was too hot to eat. When we returned to eat dinner, our house had been broken into and entered. We found a young lady in our house.

Testimony of Little Wee Bear, 2nd Witness for the Plaintiff:

My father, my mother and I returned from a walk in the forest and I found that all my porridge was eaten, my chair was broken, and there was a girl sleeping in my bed.

Testimony of Goldi Locks - The Defendant:

On September 30, 19___, my mother sent me on an errand through the forest. I love to go through the forest. I have lots of fun. After completing my errand I returned home.

Testimony of Lola Locks - 1st witness for the Defendant:

On September 30, 19___, I sent Goldi on an errand. I told her to be back at 5 p.m., and she returned on time. Goldi is very dependable.

Testimony of Kandy Kane, 2nd witness as a character witness for the Defendant:

Goldi and I have been friends a long time. She has always been honest and lots of fun to be with. I was with her most of the day in question playing and having loads of fun.

After testimony is over the jury will try to reach a decision of guilty or not guilty of breaking and entering.

To the Teacher:

Before beginning the trial, terms used should be discussed: mock trial; plaintiff; defendant; breaking and entering; testimony; jury; witness; clerk; reporter; and others you may feel necessary.

You may select characters or whatever fits you best. You may improvise this in any way that best fits your particular situation. Happy Trial. (Eyster, 1978: 132-133)

Mock Trial Procedure: Regina vs Barry

Extracted from The History and Social Science Teacher,
by Charles Hou, (1983), 18, 172-178.

1. The Opening of the Trial

The sheriff opens the courtroom door, enters, steps aside and announces:

"Order in Court."

All persons in the courtroom stand while the judge enters and takes his or her place on the bench.

The clerk commences proceedings by saying:

"The Supreme Court of British Columbia is now in session.
Her Majesty the Queen against James Barry."

The judge then directs the sheriff to bring in the prisoner, who is placed in the dock.

2. The Taking of Pleas

The counsel identify themselves as follows:

"My Lord (or My Lady) my name is _____
Crown counsel. I am assisted by _____"

"My Lord (or My Lady), my name is _____
defence counsel, and I am assisted by _____"

After being directed by the judge to proceed, the clerk asks the prisoner to stand and reads the indictment in a loud, clear monotone:

"Before me _____ (name of judge), a
Justice of the Supreme Court of British Columbia, James
Barry, you stand charged on oath as follows: that in May
1866, near Edwards' ranch between Quesnellemouth and
Richfield, you did murder Charles Morgan Blessing."

James Barry, having heard the charge read, how do you plead: guilty or not guilty?"

The clerk then turns to the judge and repeats the plea of the prisoner, saying:

"The prisoner, James Barry, pleads not guilty, My Lord (or My Lady).

He then directs the prisoner to sit down.

3. The Case for the Queen

The judge says:

"Does the Crown counsel wish to make an opening statement?"

The Crown counsel starts by saying:

"My Lord (or My Lady), members of the jury," and makes an opening statement in which he briefly establishes the Crown's main arguments and outlines how they will be proved.

The judge then says:

"Will the Crown please summon its witnesses."

The Crown counsel says:

"My Lord (or My Lady), the Crown wishes to call _____ to the witness stand."

As each witness is called, the clerk administers the oath to him:

"Do you swear that the evidence you shall give shall be the truth, the whole truth, and nothing but the truth, so help you God? ... Please state your name."

After examining the witness, the Crown Counsel says:

"No further questions, My Lord (or My Lady)."

or proceeds to cross-examine the witness ending with:

"No further questions, My Lord (or My Lady)."

A lawyer can object to the method of questioning used by the opposing counsel by rising and saying:

"Objection, My Lord (or My Lady)."

Grounds for objection include the introduction of irrelevant or inadmissible evidence, the harassment of a witness, or the asking of

leading questions. If the judge agrees with the objecting lawyer he states:

"Objection sustained."

and if he disagrees he states:

"Objection overruled."

When the counsel is finished with a witness the judge says:

"You may step down."

4. The Case for the Defence.

When the Crown has completed its case, the defence counsel makes an opening statement and proceeds to call witnesses. Defence witnesses may be cross-examined by the Crown counsel.

5. The Summation by Counsel

The defence addresses the jury first. Each side recapitulates the evidence to support its case, and tries to undermine the case presented by the other side. The prisoner, James Barry, may be allowed to address the Court at this point.

6. The Verdict

The judge addresses the jury as follows:

"Members of the jury, the prisoner is charged with murder. In order for you to find the accused guilty you must be satisfied that the Crown presented enough evidence to prove his guilt beyond a reasonable doubt. If this has not been done he should be acquitted. On you rests the responsibility of pronouncing upon the guilt or innocence of the prisoner at the bar. You must think not only of the man in the dock, but also of society as a whole. Please deliberate and return to the courtroom with your verdict."

After the judge directs the jury to retire from the courtroom to consider its verdict, the clerk calls:

"Order in Court."

and all present stand while the sheriff escorts the judge from the courtroom. The clerk then announces:

"This court stands adjourned until the jury returns."

When the jury has returned and the judge has entered in the usual manner and is seated, the clerk says:

"Members of the jury, have you reached a verdict?"

The foreman stands and says:

"We have, My Lord (or My Lady)."

The clerk then asks:

"Mr. Foreman (or Madam Foreman) what is your verdict?"

The foreman states the verdict and the clerk says:

"Members of the jury, you find the prisoner, James Barry, _____ This is your verdict, so say you all? Please stand to confirm your verdict."

The members of the jury stand briefly.

7. The Sentence

The judge says:

"James Barry, please stand."

If the verdict was "not guilty", the judge says:

"James Barry, you have been found not guilty. The Court stands adjourned."

If the verdict was "guilty", the judge says:

"James Barry, you have been found guilty of murder. For what you have done, I sentence you to public execution. The Court stands adjourned."

The clerk then calls:

"Order in Court."

and all present stand while the sheriff escorts the judge from the courtroom.

SAMPLE 6

INTEGRATION OF MOOT COURT AND MOCK TRIAL
INTO A TYPICAL SENIOR HIGH LAW COURSE

Whole courses should be constructed around one or more simulations [which] should be tried in a variety of situations.

- Boocock, 1968: 264

PROPOSED UNITS OF STUDYThe Canadian Legal System:

This unit is a general overview of the Canadian legal system, providing the students with a base of legal knowledge. First, the class will discover the importance of law in our society and its role in our individual freedom and communal life as well as its social, moral and democratic implications.

Next, the class will study a brief history of Canadian law by tracing its English and French roots as well as comparing Roman civil law and English common law. Then, the class will explore the various types of law; how laws are made and changed; the role of the constitution, its revision and distribution of legal powers in Canada; the function of lawyers within the legal system; and the legal duty of each Canadian.

In addition, the students will discuss how lawyers' fees are assessed and the professional ethics by which lawyers practice. The section will conclude with an exposure to legal forms (stressing content, not format or appearance), terminology, and description of each key position within the Canadian legal system.

Method: Lecture-format supplemented with class discussion, audio-visual, and visiting speakers. Classroom visitations to a court in session are highly recommended during this unit.

Evaluation: Traditional evaluation processes of essay-format and limited objective tests along with written reports are to be used. Simulations are not recommended for this section.

(Proposed Instructional Time: (24 45 - minute periods))

Courts and Trials:

The class will start this section with a clear understanding that more than 90 per cent of law-related activities do NOT end up in court and that courts are seen as a last recourse in settling a dispute. Thus, the students will explore other areas of conflict resolution such as plea bargaining, negotiation, etc. Then, the students will examine the structure of our court system by studying the function of each court, the role of its participants, order of trial proceedings, standards of proof, relevance of truth, burdens of proof and the distinction between law and fact. They will examine trial procedures, commencing with the pre-trial process, studying clarification, discovery, prima facie/frivolous cases, prosecution discretion, review of the order of trial, concluding with how a decision is reached.

Civil and criminal procedure are to be given an equal standing throughout this unit.

Method: Lecture-discussion format supplemented with class discussion, audio-visual, and written assignments. Limited and very brief controlled simulations to be used, exposing students to trial procedures at all levels.

Evaluation: The major evaluation tool during this period will be a written assignment stressing the importance of understanding the legal processes.

(Proposed Instructional Time: (10 45 - minute class periods))

Family Law:

Given the base provided by the first two units, the students will now explore the legal aspects of the area most familiar to them - the family. In this section, the students will define a family and how the law protects the family. They will study the types of marriage along with divorce and separation, wills and inheritance, and the role of the "Family Court". In addition, perhaps most importantly, the students will study the legal status of the child in the family, the child's legal rights and obligations, as well as the parent's legal rights and obligations.

Method: Discussion-format supplemented with limited lectures, audio-visual and case studies. In addition, students will be made familiar with wills

and family-related contractual materials. A minor family dispute will be resolved through a two class-period simulated legal negotiation process.

Evaluation: This unit will be evaluated by a case study analysis, performance during the in-class simulation (an evaluation tool is now being designed by the author in conjunction with the Faculty of Education at Saint Mary's University) and a short written test.

(Proposed Instructional Time: (14 45 - minute class periods))

Torts:

In this section, the class will explore the "Law of Torts". The students will define torts through a comparison process touching on areas such as wrongs against the state, murder and assault, defamation and trespass as well as civil negligence and criminal intent. Their study will involve topics such as the actor and victim, punishment and compensation, rights, accidents, injuries and losses, self-inflicted injuries, physical and financial losses, faults, negligent behavior and liability. The topics will be youth-oriented, thus easy for the students to relate to. Case studies will be current and are being designed in conjunction with Saint Mary's University.

Method: Lecture-format supplemented with class discussion, case studies with written assignments. A four-day "mock trial" simulation is suggested, featuring a simple intentional tort in a civil court setting.

Evaluation: The major evaluation tool will be a written brief. Students will be asked to write a legal brief logically outlining the presentation of a case in a civil court. In addition, they will be marked on their performances in the simulation activity in accordance with the evaluation instrument now being designed.

(Proposed Instructional Time: (14 45 - minute class periods))

Business Law:

This unit will provide students with background knowledge into legal contractual obligations. It is intended for this unit to commence with a section on legal contracts including bonds, agreements, deeds, offers, guarantees, credit sales, bargains, tickets, standard forms, bills of sale and tickets (stressing content, not format or appearance). In addition, the students will discuss the role of agents, court orders, compensation for injury, cooling-off periods, promises and problems of consideration.

Secondly, the class will discuss the concepts of sole proprietorship, partnership and acts of incorporation, private and public companies, prospectus, memorandum of association, shareholders and Board of Directors, monopolies and restrictive practices, etc. The students will see, complete and interpret various conditions of these legal agreements. This unit is seen as an essential part of the course, since students will gain a confidence in dealing with professional advisors such as lawyers and accountants. In addition, this section will encourage students in the development of their managerial abilities.

This section will conclude with a section on taxation and related items such as the Canada Pension Plan, Unemployment Insurance and Workman's Compensation.

Method: In-class group work supplemented with discussion and lecture. As well, visiting lawyers, working with the class in completing contract forms and assisting them in case study evaluation. A "Law Firm Simulation" is recommended, running three to four class periods, and showing the importance of negotiation and role of the lawyer between two companies.

Evaluation: This will consist of a take-home assignment centred around the analysis of a contract violation. In this assignment, the students will adopt the role of a judge faced with dealing with a civil suit in which a manufacturer produced unsafe goods and has been sued by a consumer's group. The students will be asked to write their decisions and justify their courses of action. In addition, they will be marked on their in-class performances during the simulation activity. A short test will conclude the unit.

(Proposed Instructional Time: (15 45 - minute class periods))

REVIEW/ EVALUATION - FIRST TERM (JANUARY)

Consumer Law:

This short unit is a natural follow-up to the "Business Law" unit. Besides providing students with a review and a refresher of the first term work, the unit is designed to show students the rights of the consumer, the merchant, and the manufacturer. Topics addressed in this unit shall include a comparison of corporate and personal transactions, payment of goods and

services, bailments, guarantees, consumer protection agencies, implications of "bargain" sales and illegally-obtained merchandise.

In addition, students will be exposed to practical life skills such as securing loans, insurance, mortgaging a house, etc.

Method: Discussion-format supplemented with some lecture, audio-visual, visiting merchants and case studies. A cross-disciplinary methodology is suggested involving Consumer Education, Industrial Arts and Home Economics teachers. A "Small Claims Court" simulation set over two periods is recommended, involving a dispute over faulty merchandise.

Evaluation: Besides being marked for class participation, the students will be evaluated through an in-class objective format test designed to reinforce and test for the key elements covered in the unit.

(Proposed Instructional Time: (10 45 - minute class periods))

Labour Law:

This section will serve as a reinforcement to skills and knowledge acquired in the first term. In this unit, the students will be exposed to topics such as private employment contracts, collective agreements, types of dismissal and hiring practices. In addition, unions and the bargaining process will be explored. Students will discuss employee-employer relations, the role of arbitration, court injunctions, damages for breach of contracts, lockouts, workmen's compensation, rules and rights of both the employee and the employer. The students will also discuss unemployment insurance and retraining programs.

Method: Discussion-format supplemented with some lecture, audio-visual, visiting union and employer representatives, and case studies. Participation and cooperation with the Industrial Arts and Home Economics teachers is suggested in order to create an atmosphere of cross-disciplinary educational activity. A "Board of Arbitration" or a "Contract Negotiation" simulation based over three class periods is planned.

Evaluation: The main evaluation tool in this unit consists of all students taking the role of an "arbitration judge", "labour lawyer" (for the employee) or "labour lawyer" (for the employer). In this instance, the students will either write a legal brief, outlining their client's case, or will evaluate a brief and give a their written decision in this labour-dispute.

(Proposed Instructional Time: (10 45 - minute class periods))

Criminal Law:

This unit should be seen as the climax of Law 431, in that it draws from all earlier units of study. First, the students will define a "crime" by exploring civil and criminal wrongs, compensation and punishment, as well as damages and fines. Then they will discuss social, moral and criminal offences, as well as human values (sexual, property and political crimes).

In addition, they will examine topics such as sources of criminal law; roles of the lawyer, police, victim and officials, searches, the role of the constitution and individual rights enshrined therein, arrest and interrogation, defences under the law (youth, mentally disabled, ignorance, insanity, provocation, intoxication, automatism and accident).

Finally, the class will discuss protection and punishment.

Method: Initially, a lecture-format supplemented with some class discussion centred around case studies, and with audio-visual aids. As the unit progresses, the students should become the principal participants, with the teacher assuming an advisor status. A "mock trial" simulation lasting five class periods is based on a simulated crime. As well, teachers should encourage an extra-curricular "mock trial", held on a Saturday or an evening and based on a criminal trial.

Evaluation: Evaluation in this unit will be primarily based on the in-class participation in the simulation. This will involve the usage of an evaluation tool now being designed by the author, in conjunction with the Saint Mary's University Faculty of Education. In addition, there will be a written test at the conclusion of the unit.

(Proposed Instructional Time: (20 45 - minute class periods))

Human Rights:

Students will begin by defining what is meant by both a "human right" and a "personal right". In this study, the class will discuss natural and legal rights, protection of human rights through the constitution, judicial enforcement, acts and legislation. They will be exposed to the role of the ombudsman, human rights commissions, affirmative action groups and societies. Discrimination, contrary to the rights of all Canadians, on the basis of age, sex, colour, religion, etc., will be discussed.

Method: Discussion-format supplemented with some lecture, audio-visual aids and case studies. A "Human Rights" simulation through a "moot

court" featuring a constitutional human rights issue, and lasting three class periods, is suggested.

Evaluation: Evaluation will be based on a case study analysis of a human rights issue brought before the courts. Students will be asked to review the case and describe the processes involved in bringing the conflict to an amicable conclusion. In addition, students will be marked on their in-class participation.

(Proposed Instructional Time: (10 45 - minute class periods))

Municipal Law:

This section will deal with practical life-skills at the local level. This unit will commence with a quick overview of the Canadian governmental system, with the sole goal of illustrating where municipal government fits within the Canadian governmental structure. Then, the students will learn the structure and powers of municipal councils. They will also receive a short introduction to the Canadian electoral system, designed to review knowledge gleaned from other subject areas.

Students will also be exposed to other municipal-centred topical areas such as planning (zoning, development plans, sub-divisions) and related services. As well, students will examine methods of local taxation, tax sales, assessments (how assessment is made and how it can be appealed), boards of health, building codes and the powers and structure of local school boards.

Method: Discussion-format supplemented with some lecture, audio-visual and classroom visitation by local political figures and staff. Students should either attend or be encouraged to attend, a meeting at a municipal level, be it a school board or a municipal council. A "Board of Assessment" simulation is recommended, wherein several students will appeal their property assessments to a board of appeal. This, like other simulations used in the course, could involve teachers from other disciplines, and should last for three class periods.

Evaluation: Evaluation in this unit will be based on a test stressing various municipal legal processes and terminology comprehension. As well, students will be graded on their in-class participation. A written assignment will be also given to each student, wherein they will be asked to prepare an argument for a reduction in their assessment before an appeals board.

(Proposed Instructional Time: (12 45 - minute class-periods))

Property Law

This final unit will serve as a wrap-up to the course. Here, the students will be exposed to the various types of property recognized by the law, including personal versus community property, liability, copyrights and patents. In addition, the students will discuss ownership and possession of property, legal title, leases and deeds, landlord-tenant relations, freedom of property use, duties and rights of property owners and their tenants, as well as other related topics. The class will review the entire course by drawing upon property-related examples from the types of law covered throughout the year.

Method: Discussion-format supplemented with some lecture, case studies and classroom visitation by officials from the local "Residential Tenancies Board" and landlords. A simulation based on a landlord-tenant dispute is suggested in either a "mock trial" centred around settling a property dispute utilizing a civil case structure, or by a Residential Tenancies Board mock hearing of a landlord-tenant dispute.

Evaluation: As in other units, the students will be graded on their in-class participation using specially designed instruments. Secondly, they will write a test on the unit materials and will be asked to prepare an argument in a landlord-tenant dispute.

(Proposed Instructional Time: (12 45 - minute class periods))

REVIEW/EVALUATION - SECOND TERM - (JUNE)

SAMPLE 7

THIRTY WAYS SIMULATION GAMES
USING ROLE-PLAY ARE USEFUL

Taken from Dwayne C. Poll, Simulation in the Curriculum (1973)

If, in fact, simulations are required in the educational process, what can one reasonably expect them to contribute to student learning? Cited below are some thirty observations of ways in which simulations may be helpful:

1. Simulations help to motivate students. They help to generate enthusiasm for and commitment to: (a) learning in general, (b) social studies and other curriculum areas, (c) a specific curriculum discipline, (d) a specific course, or (e) a specific teacher or teaching style.
2. Simulation exercises lead students to more sophisticated and relevant inquiry. Once the simulation is completed, students ask questions about the 'model' and its application to real events and factors. Such questioning leads into a critique and analysis of the simulation and to discussions of the stress and tensions caused by the 'model'.
3. Simulations help the students to understand the interconnectedness of those economic, cultural, historical, political, social and interpersonal factors which form the social system.
4. Students who participate in simulations learn skills such as decision-making, resource allocation, communication, persuasion, and influence-resisting. They understand the rational and emotional aspects of these skills.
5. Simulations affect attitudes in three ways: (a) students gain empathy for real life decision-makers; (b) they see life as more complicated than they imagined; (c) they realize that they can do something important about changing their personal life, the nation or the world.
6. Everyone has a personal psychology or sociology. Simulations bring these personal views into reality. People know much that is stored on a sub-conscious level and simulations act as information retrieval systems to the conscious level.
7. Participants in simulation learn the form and content of the model which is used.

8. Simulations act as "change agents" for the social setting in which education takes place. The physical format of simulations creates a departure from the usual classroom set-up, produces a more natural communication exchange between teachers and pupils, and moves 'control' of the classroom from the teacher to the structure of the stimulation, thus improving student-teacher relationships.
9. Simulations may help the teacher to see the students as more able than originally estimated, resulting in teacher introspection to explain classroom failures.
10. Simulations cause teachers to be more critical of their usual teaching methods.
11. A simulation in one classroom can create student enthusiasm which spreads to other classrooms via informal student channels.
12. A larger range of skills can be taught through simulations than by current teaching methods.
13. Simulations more nearly approximate the natural processes through which learning occurs outside the school.
14. Simulations permit the student to practice making real life decisions without suffering the direct consequences of wrong decisions.
15. The use of simulations in social studies creates a laboratory simulation similar to that used in teaching the physical sciences.
16. Simulations are student motivators.
17. In a simulation, learning comes not as a result of "trying to learn" but rather as a by-product of coping with the environment. Since the success in the simulation makes the content relevant, real learning occurs.
18. Simulation places the responsibility for learning on the student, not the teacher.
19. In simulations the teacher serves as a coach, not judge, jury and executioner.

20. Normal teaching methods create little active student involvement. Simulations require almost 100% participation and involvement by the student.
21. Simulations can successfully be utilized in classes where reading levels can span five or more grade levels.
22. Normal teaching methods discourage student-to-student verbal interaction. Simulations not only encourage this interaction but, in fact, require such interaction.
23. Simulations are effective in teaching at the various levels noted in Bloom's Taxonomy of Educational Objectives.
24. Simulations cause circular lines of communication among students rather than the linear teacher-student model.
25. Because students must accept the consequences of early decisions, they quickly comprehend the results of alternative decisions.
26. If the participant's strategy and action are not effective, the simulation requires the participant to evaluate what is wrong and selects alternatives for improving his strategy.
27. Simulations convey the cause and effect relationships involved in a complex interactive situation.
28. Simulations are well suited for developing problem-solving abilities of students. Since there is no single 'right' outcome or any one best strategy, simulations encourage a flexible approach to problems.
29. Simulations reward effective problem-solving and do not prescribe punishment for the use of conscious or intuitive means of solving a problem.
30. Simulations require the gifted student to think critically, not just memorize.

[Footnoted in article to: "Simulation: What is it? What Can it do?" Undated, mimeographed paper by Western Behavioral Sciences Institute, pp. 2-5.]

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ANNOTATED BIBLIOGRAPHY

Introduction

The following annotated bibliography is a collection of materials pertaining to the use of mock trials, moot courts, and other related classroom activities in use in North America before 1986. Although this list is by no means complete, it does represent a major collection of published works on this topic to date.

For your convenience, these materials are divided into five sections:

1. **Texts.** Published works by a commercial publishing house generally enjoying international distribution. (Pages 148-153)
2. **Reports, Games and Teachers Guides.** Various materials designed for this topic which, for the most part, have had limited distribution. (Pages 153-166)
3. **Journals.** Articles published in periodicals. (Pages 167-194)
4. **Conferences.** Speeches and conference materials relating to this topic. (Pages 195-200)
5. **Theses.** Master's theses or Doctoral dissertations which have some relevant content deemed applicable to this topic. (Pages 201-202)

Each annotation consists of a brief description of the item, providing the reader with information as to whether or not this reference would be of interest for further study.

Each annotation is followed by four "key words". The following list explains their meaning:

TOPIC: Research and background materials relevant to the educational application of mock trials and moot courts in North American classrooms.

GROUP ONE:

1. **Reference.** Considered background materials only.
2. **Resource.** Source materials which require little adaptation for direct classroom use. These might contain case studies, sample cases, or general teaching methodologies.
3. **Activity.** Designed for use in the classroom "as is". Usually games or planned classroom activities.
4. **Procedure.** Source materials containing several references to actual procedures designed for the topic area, which could be used directly in an activity.
5. **Research.** Research data obtained in a particular area relevant to this topic. Generally, these are both very technical and useful.

GROUP TWO:

1. **All Levels.** Applicable to elementary, junior high, senior high and university students and/or teachers.
2. **Elementary.** Kindergarten to grade six inclusive.
3. **Junior High.** Grades seven to nine inclusive.
4. **Senior High.** Grades 10 to 12 inclusive.
5. **University.** Beyond senior high.

GROUP THREE:

1. **All Courses.** Suitable for use in any course offered in the institutions referred to in group two.
2. **Law.** Designed primarily for law, but could be used in social studies or other courses after making considerable changes.
3. **Social Studies.** Designed for social studies but could be adapted, after some modification, to a law course.
4. **Sciences.** Designed for a science course such as biology, ecology or physical science.
5. **Mathematics.** Designed for either a basic mathematics course or for specific courses such as geometry and algebra.
6. **English.** Suitable for any English course offered.
7. **Consumer Education.** Suitable for any business education course.

8. **Guidance.** Recommended for anyone involved in counselling students.

GROUP FOUR:

1. **Excellent.** This item provides excellent background materials applicable to this topic. All parts are relevant. Highly recommended.
2. **Good.** Generally more than 70 per cent deals with the topic, and 75 per cent of the information is applicable to the subject area and levels. Recommended for consideration.
3. **Fair.** About 50 to 70 per cent deals with the topic or some limited aspect of the topic area applicable to the subject area and levels.
4. **Weak.** About 30 to 50 per cent deals with the topic, with very limited references and materials of use to educators in the referred-to subject area and level.

ANNOTATED BIBLIOGRAPHY

Texts

Adams, Dennis M. Simulation Games: An Approach to Learning.
Worthington, Ohio: Charles A. Jones Publishing Company,
1973.

This text provides an examination of the benefits of simulation games for students at all levels. The author sees simulations, whether they are board games, role-playing, etc., as "going beyond the more limiting two dimensional aspect of traditional classrooms." (98) The author shows how games make learning an active process encouraging the learner to "discover the consequences of his actions within a relatively safe environment." (99) He views games as critical devices in creating new ideas, understanding and reacting to concepts and principles of our society. As well, he explores 25 benefits of simulation usage in the classroom.

(Reference-All Levels-All Courses-Good)

Anderson, Charlotte C. and Falkenstein, Lynda Carl (eds.). Daring to Dream--Law and the Humanities for Elementary Schools.
Washington: American Bar Association Special Committee on Youth Education for Citizenship, 1980.

The authors examine all facets of elementary law education. They also provide simulation activities, such as a mock trial over the ownership of the copyright of Alexander Graham Bell's telephone. There are resources such as checklists for legal field trips, activity evaluations and a model for the infusion of law into the existing K-12 curriculum. The authors treat law-related education in a cross-disciplinary way.

(Reference/Activity- All School Grades-Social Studies-Good)

Armstrong, R.H.R. and Taylor, John (eds.). Feedback on Instructional Simulation Systems. Cambridge: Cambridge Institute of Education, 1971.

Most of the material in this book is technical and research-oriented, stressing the importance of simulation in the classroom. Of special interest are the articles by R.H.R. Armstrong and Lindy Harry. These two authors explore simulation in depth and offer practical suggestions to the classroom.

teacher in implementing role-play or board games. Several research studies are quoted, along with several gaming models.

(Reference/Research-All Levels-All courses-Good)

Atkin, Lord Justice J.R. The Moot Book of Gray's Inn. Chiswick: Butterworth and Company, 1924.

This book is a selection of cases used by barristers at Gray's Inn in the late 1800s and early 1900s. The book has an assortment of cases which could be drawn upon as a basis for various moot courts and even mock trials. The Forward traces the history of mooting or "moyting" from the mid-1500s to the early 1920s.

(Reference-All Levels-Law-Good)

Board of Student Advisors, Harvard Law School. Introduction to Advocacy. Mineola: The Foundation Press, Inc., 1976.

The primary purpose of this book is to serve as a reference text for law students. However, educators are strongly urged to read chapter six ("Oral Advocacy", pp. 124-143), if they intend to develop mock trial, moot court, or pro se court methodology in their classrooms. This chapter explains the preparation for, and organization of, moot court and mock trial. As well, suggestions are offered for delivering legal argumentation in a mock or moot setting. The chapter covers topics such as research, analysis, strategy, style, arguments, rehearsal, question anticipation and rebuttals.

(Procedure/Reference-All Levels-Law-Excellent)

Boocock, Sarane S. and Schild, E.O. Simulation Games in Learning. Beverly Hills: Sage Publications, 1968.

This book is the most widely-quoted text on the topic of developing simulation-gaming and role-play in the classroom. The author reviews several facets of gaming, from its history, to its importance in areas such as skill development, design, dissemination and teacher's opposition. There are several references to studies as well as an extensive bibliography. The author clearly distinguishes between role-play and simulation gaming.

(Reference-All Levels-All Courses-Excellent)

Eisenberg, Abne N. and Harado, Joseph A. Argument: A Guide to Formal and Informal Debate. Englewood Cliffs: Prentice-Hall, Inc., 1980.

This widely-quoted text tends to be treated as the "bible of debating" by many present-day authors. The author provides an excellent guide for debating. Chapter three gives an outline of evaluation procedures to be followed in judging/marking a debate in accordance with the standards of the American Forensic Association. In addition, the text explains all steps in

debate-planning, time allocation, rules and procedures, etc. Several sections can be easily adapted to role-play or simulation gaming.

(Reference/Procedure - Senior High/University - All Subjects - Excellent)

Gerlach, Ronald A. and Lamprecht, Lynne W. Teaching about the Law. Cincinnati: The W.H. Anderson Company, 1975.

Chapter nine deals exclusively with simulation, role-playing and gaming in law education. This chapter has an excellent description of a moot court and mock trial complete with role descriptions, court procedures and several sample cases. The authors pay special attention to the role of the instructor in these games and what is expected of them. In addition, they differentiate between gaming, role-playing and simulation. They describe these three activities as very advantageous for generating student interest, "fostering a cooperative spirit amongst students, developing empathy and teaching communication, clarification and critical thinking skills." (214)

(Procedure/Reference-Senior High/University-Law-Excellent)

Greenwald, G. Dale and Superka, Douglas P. Evaluating Social Studies Programs: Focus on Law-Related Education. Boulder: SSEC Publications, 855 Broadway, 1982.

The first section of this book presents a model for evaluating programs by providing an overview, as well as suggestions for planning and conducting effective evaluation. The second section outlines various evaluation techniques such as Likert Scales to be used for student attitudinal measurement, as well as ways to analyze and report data. The authors also discuss the importance of assigning priorities in evaluation. The book should be of value to educators planning to use innovative techniques, such as moot court or mock trial, in that it provides a tool to measure their effectiveness in the classroom.

(Reference/Research-All Levels-All Subjects-Good)

Guetzkow, Harold (ed.) Simulation in Social Science Readings. Englewood Cliffs: Prentice Hall Inc., 1962.

This book is a collection of technical, academic and research papers dealing with all facets of simulation, except for evaluation procedures. The author explores several gaming and role-play activities. Guetzkow clarifies terms such as simulation, gaming and gaming techniques.

(Reference-All School Levels-Social Studies-Good)

Kelly, Michael J. Legal Ethics and Legal Education. Hastings-on-the-Hudson, New York: The Hastings Centre, 1980.

As the title implies, this text deals primarily with legal ethics and education. The author provides a good history of the development of legal education in North American law schools over the past century. Although general in scope, there are several references and suggestions for more "clinical" activities in legal education. A central element in this suggested approach is simulation and role-play.

(Reference-University-Law-Weak)

McLendon, Jonathon C. Social Studies in Secondary Education. London: The MacMillan Company, 1967.

This text deals with social studies instruction in a universal way. There is an occasional reference to the benefits of mock simulations and role-play. McLendon also addresses drama and sociodrama in the social studies classroom. "The chief values ... lie in ... the better understanding, through utilization and application, of subject matter. Certainly, students will need to study thoroughly a process, event, or the people involved in a situation if they are to be prepared to present sociodrama effectively." (430)

(Reference-Senior High-Social Studies-Fair)

Megarry, Jacquetta (ed.). Aspects of Simulation & Gaming--An Anthology of SAGSET Journal Volumes 1-4. London: Kogan Page, 1977.

This is a collection of reference material dealing exclusively with simulations and gaming in the classroom. A wide range of topics, including tips for teachers planning to start using games, and analysis of various in-class simulations are discussed. The book gives an British perspective of the gaming process at all levels. It is a useful reference text, especially helpful to a starting teacher.

(Reference-All School Grades-All Subjects-Good)

Moutlon, Eugene R. The Dynamics of Debate. New York: Harcourt, Brace & World, Inc., 1966.

This book, although similar to that of Eisenberg (1980), serves as a reference book for English teachers, debaters, law students and those involved in law-related education. The author stresses case strategy, including the formulation of a positive and negative case; debating types such as mock trial, heckling, direct clash, legal, academic, etc; as well as suggested models, etc. The text explores debating formats and offers suggestions, including proposed schedules and time allocation for most debating forms still in use today.

(Procedure/Reference - Junior High/Senior High - English/Social Studies - Excellent)

Peck, Robert S. Understanding the Law: A Handbook on Educating the Public. Chicago: The American Bar Association, 1983.

This is a collection of various successful methods and models used in the classroom by legal educators across North America. The main body of the book describes various model programs which include those sponsored by the American Bar Association, court-sponsored programs, media efforts, community legal education, school programs (mock trials and moot courts) and the developing legal expertise of other professions. (ED 240 031) *

(Reference-All Levels-Law-Fair)

White, Charles (ed.) Building Bridges to the Law: How to Make Lawyers, Judges, Police, and Other Members of the Community a Part of Your Law-Related Education Program. Chicago: The American Bar Association, 1981.

The author suggests ways to get students involved in the community legal process, discussing community and school projects from across the United States. Mock trials, professional visits, police liaison programs, etc. are examined. A short final section provides teachers with instruments and suggestions to evaluate their own projects. A list of articles, books and audiovisual aids is also presented. (ED 209 144)

(Reference-All Schools-Law-Fair)

Ziegelmüller, George W. and Dause, Charles A. Argumentation: Inquiry and Advocacy. Englewood Cliffs: Prentice-Hall, Inc., 1975.

This book serves as a guide for teachers, law students, debaters and secondary students. The author explores various types of evidence; clearly explains legal and debating terminology; discusses debating formats; and devotes a great deal of attention to the purpose and proper execution of cross-examination.

(Reference/Procedure - Senior High / University - Social Studies/ English - Excellent)

ANNOTATED BIBLIOGRAPHY

Reports, Games and Teachers' Guides

Allen, Rodney F. and Landry, Russel H. (eds.). Consumer Law-Related Education Materials--Okeechobee County. Sebring, Florida: Tri-County Teacher Education Centre, 1981.

This 102-page American resource document centres around consumer law-related materials suitable for grades four to seven. Allen uses role-playing in a card game and provides some sample role-play cases, such as a student and school bus driver clash. The activities deal with topics such as behaviour and consequences, analyzing of case studies, media interpretation, etc. Students are exposed to both the American juvenile justice system and the adult criminal justice system. It has excellent tips for values education. (ED 216 989)

(Activity-Elementary-All Courses-Good)

Baker, Leslie. Understanding Law: Documents in the Process. Vancouver: The Legal Service Society, 1982.

This legal simulation kit provides law teachers with five mock legal files and a teacher guide. Two of these demonstrate the criminal justice process (a summary conviction on a case of impaired driving and a County Court case on breaking and entering). One consists of documents needed in a divorce case. Another outlines a small claims action. The last file deals with a tort (physical injury). Each file has a fact sheet (the scenario), explanatory notes as well as copies of completed court and other official documents applicable to the case. Since this is a British Columbia-based kit, some modification may be required. The teachers' guide outlines each case file with questions and answers, class activities and a good, simply written glossary. Although mock trial is suggested as one activity, no guides are given.

(Activity-Junior/Senior High-Law-Good)

Burco, Donna Kay; Damon, Gil; Haskell, Douglas; and Larson, Susan Booth. Law Related Education in Portland--A Teacher Resource. Portland, Oregon: Portland Public Schools Curriculum Department, 1980.

This 64-page report deals with all facets of teaching law-related education in Portland schools. The authors offer good suggestions, especially in the areas of interpreting legal case studies, writing and acting in socio-dramas, creating collages, etc. There is a good section on teaching strategies in which a fair amount is dedicated to role-playing through mock trial and moot court. Limited evaluation procedures are suggested. (ED 201 584)
(Reference-All Schools-All Subjects-Fair)

Bushnell, S.I. "Mechanics of the Courts: Evidence." Windsor: Community Law Program, Faculty of Law, University of Ontario, 1976.

This pamphlet should be seen as a companion-piece to the one on "mock and moot" by De Gruchy, appearing later in this bibliography. In this article, the author reviews the rules and the importance of evidence in a trial. The author examines evidence from the perspective of the judge, defence counsel, crown prosecutor, jury and witnesses. The concept of evidence is addressed, as are the topics of solicitor-client privilege, crown privilege, judicial notice and burden of proof.

(Reference-All Levels-Law-Excellent)

Califano, Joseph A., Jr. "Final Report of the Study Group on Law-Related Education." Washington: United States Department of Health, Education and Welfare, 1978.

This report serves as a good resource document, tracing the development of law-related education in American schools. The author quotes statistics which illustrate that teenagers have declining respect for others; that they feel helpless to have any input into our democratic society; and that they possess negative views towards both government and police. The report suggests the law-related education would result in a more positive image of our society being portrayed to the youth. (ED 175 737)

(Reference-All Schools-Law-Weak)

Chartier, Myron R. "Simulation Games as Learning Devices: A Summary of Empirical Findings and their Implications for the Utilization in Instruction." Covina, California: American Baptist Seminary of the West, 1973.

The author reviews existing research and concludes: "that, in general, students respond with interest and motivation to games, that students learn content as well through games as through conventional methods, and that opinions and attitudes are sometimes changed through the vicarious experience of a simulation game." (6) He provides seven suggestions for the utilization of simulation games in the classroom, including motivations, shifting attitudes, etc. Overall, Chartier concludes: "Because games involve

students in dynamic social processes, they are particularly appropriate for courses in processes of speech communication." (17) (ED 101 384)
(Research-All Schools-All Courses-Good)

Craig, Richard C. and Noonan, Randy J. "Mock Trial: Regina vs Brogue." Vancouver: Legal Services of British Columbia, 1983.

This very attractive simulation game describes the process of setting up a mock trial in a law class. It consists of a teachers' guide as well as information files for the defence counsel, crown counsel, court clerk, jury, judge, deputy sheriff and witnesses. Each of these "files" explain the duties of each role, plus tips as to how the students may help make the simulation experience as meaningful as possible. The teachers' guide provides tips for setting up the mock trial, selecting students for various roles, a review of the case (three counts under the Narcotics Control Act) and assorted diagrams. No evaluation suggestions are given.

(Activity/Procedure-Junior/Senior High-Law-Good)

DeGruchy, Susan. "Mechanics of the Courts: Mock/Moot." Windsor: Community Law Program, Faculty of Law, University of Ontario, 1976.

This pamphlet provides a background of the mechanics of both mock trials and moot courts. The author differentiates between these and discusses a wide range of topics such as case choices, case facts, applicable case laws, oral advocacy and courtroom etiquette. A short section is devoted to procedure and time frames. Roles are not discussed, nor are evaluation processes.

(Procedure/Reference-Senior High/University-Law-Good.)

Denton, Jon J.; Kracht, James B.; and McNamara James F. "Do Teachers Make a Difference in Teaching Law-Related Topics in Social Studies?" Texas A & M University, 1977.

This research paper summarizes an experiment involving 1,111 students and 57 teachers in Texas schools. The authors found that "differences do occur among social studies classrooms regarding learner cognitive attainment of law-related content." (10) Further, they found that "these results indicate the effect of the individual teacher is more pronounced in upper grades regarding cognitive attainment of course specific content." (11) The authors suggest more in-servicing and professional development for law teachers, especially in areas of innovative techniques such as moot courts, mock trials, etc. (ED 175 754)

(Research-All Schools-Social Studies-Good)

**Dresbach, Debra. Civil Law: 12 Activities. Los Angeles:
Constitutional Rights Foundation, 1979.**

The author provides a brief overview, background information, teacher instructions as well as a description of each of 12 activities centred around civil law. Each activity has case studies, simulations and a role-play activity. Activities include: Lawyer's fees-What's Reasonable?; Consumer Fraud; Consumer Goods and Services: What about quality?; Consumer Prices: What does it Cost?; The Civil Lawsuit; Small Claims Court; Landlord-Tenant Problems; Fair Housing; Sex Discrimination; Sex Discrimination and the Courts; Immigration Law; and The Problems of Illegal Aliens. (ED 207 880)
(Activity-Senior High-Law-Good)

**Dresbach, Debra. Crime and Justice: 10 Activities. Los Angeles:
Constitutional Rights Foundation, 1979.**

The author provides a brief overview, background information, teacher instructions and a description of 10 activities centred around civil law. Each of these feature case studies, simulations and a role-play activity. Topics covered in this resource include helping the victims of crime, the police board, pre-trial release, plea bargaining, the treatment of witnesses, appellate court, runaways, who should go to juvenile hall, the death penalty and probation. (ED 206 554)
(Activity-Senior High-Law-Fair)

**Engstrom, Paul H. Decisions--A Student Casebook on Criminal
Law. St. Paul, Minnesota: Paul S. Amidon & Associates Inc.,
1978.**

This American casebook provides several brief examples, in both written and illustration format, of a wide range of criminal offences ranging from a homicide to an abduction to arson. Areas of primary interest to young people, such as shoplifting and sexual offenses, are addressed very briefly.
(Resource-All Schools-Law-Fair)

**Eyster, Ira. Law Citizenship Education: Curriculum Guide.
Oklahoma: The Law for Public School Use Project, Southwest
Centre for Human Relations Studies, The University of
Oklahoma, 1978.**

This curriculum guide outlines law-citizenship education for kindergarten to grade eight students. It contains detailed course outlines and supplementary resources. Several appendices are also included for moot court and mock trial simulations. For example, appendix vi features a mock trial entitled "Great Big Bear vs. Goldi Locks." Character lists, trial facts and statements are included. Case details and suggested evaluation tools are lacking. (ED 175 756)

(Reference/Resource-Elementary/Junior High-Social Studies-Fair)

Ferguson, Margaret and Matheson, Cheryl. Mock Trial Kit-Case Notes & Resource Book. Edmonton: The Legal Resource Centre, Faculty of Extension, University of Alberta, Second Edition, 1984.

This mock trial kit was designed "to provide teachers with sufficient information to enable them to conduct a basic mock trial." (iv) The 141-page resource book contains everything from educational objectives and the plan of a mock trial, to a study of Alberta's court system and sheets describing each of the key roles. The 39-page case book contains fact sheets for the mock trial (theft of goods under \$200), case notes for each role-player, information on entering exhibits and even a sample charge to the jury. As well, there is a 21-page student trial book which allows the student to follow, "step-by-step", the mock trial.

(Activity/Procedure-Junior/Senior High-Law-Excellent)

Franks, Maria G. and McNeil, Claire. Under 19: You and the Law. Halifax: Public Legal Education Society of Nova Scotia, 1986.

This 68-page booklet is directed at young Nova Scotians. Sections on criminal law and family law account for about half of the booklet. The remainder deals with provincial and municipal laws, citizenship, school, work, "you and your lawyer" and definitions. As a teacher's resource, the sections on family law and criminal law would be of significant interest. The booklet features several question-and-answer sections which could be easily adapted to class discussion. Within the criminal law section, there is a section on the Young Offender's Act.

(Resource-All Schools-Law-Good)

Goldsmith, Penny. The Casebook. Vancouver: The Legal Services Society of British Columbia, 1982.

This casebook contains supplementary case material for labour, criminal, family, property, contract and human rights law. There is only limited mention of juvenile law, civil law, torts and consumer law (although this latter area is touched upon under the contracts section). The author provides an overview of the case method approach to law instruction. Each section is followed by review questions with answers provided as a guide for teachers. The cases tend to be "bare-bones" and thus lack the detail that many students might desire. The book features excellent lists of supplementary resources following each section.

(Resource-Junior/Senior High-Law-Good)

Henning, Joel. Report of the Special Committee on Youth for Citizenship. Chicago: The American Bar Association, 1971.

This report provides a good background into the foundation of law-related education projects in the United States through the 1970s and 1980s. It defines the need to provide resource materials for both teachers and students which are relevant to their everyday lives. The author lists the benefits of such programs in developing analytical skills, moral and ethical values, appreciation of the legal process, and the encouragement of responsible political participation.

(Reference-All Schools-Law-Fair)

Holloman, Jeff and Kindred, Hugh. Laws of Nova Scotia: A Sourcebook for Teachers. Halifax: Public Legal Education Society of Nova Scotia, 1982.

This sourcebook contains a selection of statutes, regulations and case reports intended to serve as a companion to law textbooks in use in Nova Scotia schools. The book has references in the following areas: courts and constitution; civil procedure, criminal law, human/civil rights, torts, contract law, consumer law, bailment, property law, landlord tenant, labour law, family law, wills and inheritance, etc. Many of these sections can be used as a good base from which an educator can extract scripts for an in-class moot court or mock trial.

(Reference-All Levels-Law-Good)

Jordan, Kim. Jack in the Beanstalk: Mock Trial Activity Kit. Winnipeg: Community Legal Education, 1986.

This kit was designed for elementary schools using a popular fairytale as the centre of the simulation. The author sees the kit as a way in which students will learn the processes, the roles, formality and procedures of the Canadian legal system. The kit comes complete with a teachers' guide which sets out the structure, debriefing exercises, a time chart, a trial script and assignments for role-players. A separate student guide, in a clear, easy-to-read format, allows the student to follow the trial. Roles are clearly defined and sample testimony is provided.

(Activity-Elementary-Law-Good)

Laverty, Grace E. and Peters, Leslie K. Evaluation of the Impact of the 1980-81 Justice Education Teaching Strategies (JETS) Program. Harrisburg: Pennsylvania State Department of Education, December, 1981.

The study uses a sample of teachers, parents and administrators but does not reflect students' views on the one year program. Changes in student attitudes and knowledge were difficult to access since many of the

schools began the program too late to allow completion." (abstract) The survey, however, did show that there was considerable parent support (70 per cent) for the LRE program. JETS used simulation and role-playing as part of the teaching strategies. (ED 225 884)

(Reference-All Schools-All Courses-Weak)

Lengel, James G. American History Computer Programs. Lincoln: The Nebraska State Department of Education, October, 1983.

This document briefly outlines seven interactive computer programs designed by the author to assist students in their studies of American history. These include "The Case of Peter Goodman" (1630- Plymouth Colony); "Intolerable Acts" (Pre-1774); "The Bill of Rights" (20 cases); "Vigilante Mock Trial" (1859 American West); "Case Study: Brown v. Board of Education" and "Case Study: Tinker v. Des Moines" (the latter two cases involve constitutional rights in school); and "Sex Discrimination Mock Trial." The programs consist of databases with interaction capabilities with Radio Shack or Apple computers. Ordering information is provided. (ED 237 371)

(Activity-Junior/Senior High-Social Studies-Fair)

Macdonald, Rod. Law and the Lay-Person: Courts and Trials.

Windsor: Community Law Program, Faculty of Law, University of Ontario, 1976.

This pamphlet is a companion to those by Bushnell and De Gruchy, previously annotated. It provides an overview of the Canadian courts from both a civil and criminal perspective. The civil section discusses how a dispute gets to court, and reviews the various avenues available. The criminal section discusses summary and indictable offences, the court structure and processes, as well as trial courts, appeal courts and the Supreme Court.

(Reference/Procedure-All Levels-Law-Excellent)

MacKay, Wayne. Moot Court and Mock Trial. Private Paper

prepared for the Nova Scotia Department of Education, 1976.

This 69-page paper serves as a guide for designing either a moot court or a mock trial simulation. The author uses a case of teacher-student assault. "The use of a high school situation allows the students to identify with a familiar situation and thus arouse their interest." (1) The paper provides a teacher with a case background, an organizational structure on moots and mock trials (using Gerlach), a sample civil moot on assault, a sample criminal trial on assault, debriefing and conclusion. MacKay provides both references and legal research material for this case. No evaluation procedures are given but he does provide a "Mock Trial Analysis Sheet" which could be adapted

and modified for evaluation purposes. The debriefing section provides teachers with a series of discussion questions.

(Procedure-Senior High-Law-Good)

Manitoba Department of Education. "Law 302." Winnipeg: Manitoba Department of Education, September 1982.

This publication outlines the law course offered in Manitoba as part of the business education program. Conducted over 110-120 hours of instruction, the students are introduced to the Canadian legal system, torts, contracts, property rights, family law, crimes, etc. Various teaching methodologies are suggested, including library research, field trips and scrapbooks.

(Reference-Senior High-Law-Weak)

Mathews, Nancy N. "Lesson Plans in Law-Related Education." Salt Lake City: Utah State Office of Education, August, 1980.

This handbook was designed to integrate legal and values education into an elementary curriculum. It contains topics designed "to develop the students' critical thinking and decision-making skills." (abstract) Teaching strategies include brainstorming, role-playing, mock trial, debating and case studies. Topics addressed include authority, roles, stealing, vandalism and the keeping of pets. Each lesson comes complete with a time frame, objectives, teaching strategies and available resources. (RD 194 425)

(Reference/Activity-Elementary-Social Studies-Good)

McCosh, John and Rhyason, Diane. "Legal Education for Youth in Canada." Ottawa: The Department of Justice-Canadian Law Information Council, 1976.

This 76-page paper discusses the rationale for public legal education in Canada and reviews programs as well as methods of legal education in schools. It reports on the state of legal education in each province in Canada as a result of a nation-wide survey conducted by law students. The report is very general and does not offer any concrete suggestions to educators. In short, it is merely a summary document of the state of law up to 1980.

(Reference-All Schools-Law-Weak)

McGinn, Frances. "New Brunswick Law: A Reference Handbook for Teachers." Fredericton: Department of Education, 1982.

The first section deals with the theory and philosophical nature of law by exploring legal sources, categories, concepts, terminology and court organization. The second section deals with specific areas of law such as Family Law, Consumer Law, Working Standards, Young Offenders Act, etc. Another section serves as a resource for the existing textbook used in the

province in its Law 123 Course. Other sections deal with civil and criminal law, legislation and statutes. The book contains 28 case studies, exploring many legal areas.

(Resource/Reference-Senior High-Law-Good)

Missouri Bar Association. "How to Plan and Conduct a Mock Trial: Civil Trial." Jefferson City: Missouri State Bar Association, April, 1981.

This document contains both the resources and steps to organize a mock trial. Although it is based in the State of Missouri, it could be modified to any state as well as to the Canadian legal system. The booklet sets out the order of a civil trial, starting from jury selection and presentation of evidence through to deliberation. A sample case involving a landlord-tenant dispute is also given. Information for key role-players is provided. There is also a section explaining how to prepare for a mock trial, legal procedures and an explanation on the rules of evidence. (ED 201 577)

(Activity/Procedure-Senior High-Law-Good)

Missouri Bar Association. "How to Plan and Conduct a Mock Trial: The Small Claims Court." Jefferson City: Missouri State Bar Association, 1980.

This booklet is based on the laws of the State of Missouri, so modification is necessary. However, it has an explanation of a small claims court and the steps involved in proceeding with a case. Sections on how to prepare a claim, questioning procedures and restrictions, counterclaims, preparation for court and several sample cases are given. Checklists for some these topics are also provided. (ED 204 215)

(Activity/Procedure-Senior High-Law-Good)

Nelson, Murray (ed.). "Justice Education Teaching Strategies (JETS)." Harrisburg: Bureau of Curriculum Services, Pennsylvania State Department of Education, 1980.

This teaching guide is designed to "promote and maintain positive student attitudes and behavior and to assist students in understanding their rights and meeting their responsibilities, to help ensure the safety and welfare of self and others." (abstract) It is divided into four units, entitled: rules and laws, authority, conflict, and crime. Activities such as mock trial, witch trial, trial by ordeal, plays, reading and discussing stories are discussed. But, in some cases, detail is lacking, so a lot is left to the imagination of the individual teacher. The guide has a list of print and nonprint student materials available. (ED 199 161)

(Activity/Reference-Elementary-Social Studies-Good)

Nova Scotia Department of Education. Bank of Legal Curriculum Units. Nova Scotia Department of Education, 1978.

This "bank" was established by law teachers in Nova Scotia during a summer in-service held at the Weldon Law School in July, 1976 and filed with the Social Studies Consultant at the Department of Education. In all, 17 units of study were designed, including units on capital punishment, violence in hockey, custody of the battered child, bailment, marriage, consumer rights, etc. Each contains a teachers' guide to its legal and educational objectives, content, methods of use and means of unit evaluation. References for both students and teachers are given. Most of the units follow a traditional lecture-discussion format. The units by Wayne MacKay, "A Moot Court" and "Mock Trial Based Upon a Teacher-Student Assault" and a unit by D.G. Kennedy, "Care of the Battered Child", feature role-playing simulations. In both cases, traditional law school moot court and mock trial simulations are used. The units, however, feature in-depth research materials, including precedent cases and excerpts from the criminal code.

(Resource/Reference-Senior High-Law-Good)

Nova Scotia Department of Education. Law in High School-- Teaching Guidelines. Nova Scotia Department of Education, 1978.

This program of studies provides the basis for the Nova Scotia grade 11-12 Law course. Topics such as program aims, rationale, target population, teaching and evaluation methods are discussed. The course is divided into nine units of study, including an introduction, crimes, injuries and wrongs, human rights, property rights, promises and agreements, business relations, family relations, and court and trials. The book provides an extensive, 50-page bibliography listing reference materials, literature, audio-visual aids and games.

(Reference-Senior High-Law-Fair)

Oswald, Linda. Utah Mock Trial Competition. Salt Lake City: Utah State Office of Education, 1983.

This document presents a model for educators who are planning to develop mock trial competitions on a state-wide or province-wide basis. The booklet starts with an introductory letter and an official team entry form. Then, the rules of competition and Utah mock trial procedures are given. The author also provides simplified rules of evidence, general guidelines for teacher/coaches, witnesses, attorneys, judges and the clerk/bailiff. A timing sheet, a performance rating sheet and comment form are given along with the case used in the 1983 competition. (ED 237 383)

(Activity/Procedure-Senior High-Law-Excellent)

**Pink, Ronald A. "A Pilot Course in Law." Halifax: Youth Education-
The Department of Education, 1972.**

This 164-page course outline provides an interesting study into the first attempts at getting law instruction underway in Nova Scotia schools. This pilot course starts with the British North America Act and leads into the role of legislators. Other sections include administrative tribunals, the structure of the court system, criminal law and two theories of law.

(Reference-Senior High-Law-Weak)

**Poll, Dwayne C. "Simulation and the Curriculum." Boulder: ERIC
Clearing House for Social Studies/Social Science, 1973.**

The author justifies the use of simulations in a classroom and describes 30 ways in which their use (i.e. role-play, mock trials, etc.) can contribute to student learning. A list of seven steps in the creation of individual simulation games as well as an appendix listing sources of commercially produced simulation games are also provided. (ED 188 229)

(Reference-All Levels-All Courses-Good)

**Rathwick, Glen. "Fresno Mock Trial Competition." Fresno Unified
School, Fresno, California, 1984.**

This one-page document briefly outlines the structure of the Fresno, California mock trial competition. The author mentions the participants, overall structure and very briefly touches on procedures.

(Reference-Senior High-Law-Weak)

**"Reference Sheet on Legal Education." Boulder: Educational
Resources Information Centre, March 1982.**

This document reviews a range of classroom games and support materials which can be used in law classes at all school levels. Four legal games are reviewed, giving source, price and ordering information for each. These games are: "Moot" (1972); "Plea Bargaining" (1980); "Police Patrol" (1981); and "Trial Lawyer" (1977). (ED 232 925)

(Reference/Activity-Junior/Senior High-Law-Weak)

**Smith, Helen. "Law Related Education Project-Evaluation Report."
Memphis: Division of Research, Memphis City Schools,
Tennessee, November, 1982.**

This report discusses teacher training, community support for a law-related education programs, curriculum design and pilots, as well as student achievement. One section is devoted to the involvement of 16 Memphis high schools in the state mock trial competition. The report contains the organization, rules and procedures for organizing such a competition. It also contains the result of a questionnaire on student attitude, involving about

750 students administered after the law-related education project. This report is of interest to schools and school boards considering starting a law program, in that many of the problems which were confronted and solved by the Memphis City Schools still affect other systems today. (ED 231 861)
(Reference-All Schools-Law-Good)

Stadsklev, Ronald. "A System for Analyzing Social Simulations and Educational Games (SAS) or Games Analysis System (GAS)." Seward, Nebraska: Concordia Teachers College, 1969.

This paper "represents an effort to begin the development of a system that will effectively provide a method of analyzing autotelic educational material such as games and simulations. This system will be of use to curriculum supervisors, chairmen, and teachers who make curriculum decisions; to classroom teachers who use the materials; and to innovators that develop the materials." (abstract). This paper has general statements, definitions and a literature search. Stadsklev offers a starting point for the problem of gaming evaluation. (ED 049 099)
(Reference-All Schools-All Courses-Good)

Turner, Mary Jane. "Law in the Classroom: Activities and Resources." Boulder: SSEC Publications, 855 Broadway, 1979.

This 333-page document addresses the benefits of community involvement in law-related education. It discusses strategies that can be used in the classroom such as case studies, mock trials, moot courts, etc. The paper suggested classroom activities designed to introduce legal studies, criminal law, civil law, etc., with handouts. A list of supplementary resource material is provided. Canadian educators are cautioned that this is an American resource, so modifications will be necessary. The guide lacks detailed role explanation and evaluation methods. (ED 179 468)
(Resource/Activity-Junior/Senior High-Law-Good)

Turner, Mary Jane and others. "Law-Related Education Evaluation Project. Final Report. Phase II. Year I." Boulder: Center for Action Research, Inc, December, 1981.

This research paper discusses 12 law-related education projects conducted in 1979-1980. The author notes that too small a sample was used to determine an accurate picture of these programs. This document explores several types of teaching methodologies, including role-play and mock-trial. (ED 220 391)
(Reference-All Schools-Social Studies-Fair)

Turner, Mary Jane and Parisi, Lynn. Law in the Classroom: Activities and Resources--Revised. Boulder: SSEC Publications, 855 Broadway, 1984.

This is an enlarged 405-page version of a document which was prepared in by Turner in 1979. It explains all types of law-related classroom activities including mock trial, moot court and pro se court. It is as visual as the 1979 book, with upgraded handouts and better directions for teachers. An updated supplementary resource list is given, along with an extensive bibliography. (ED 247 190)

(Resource/Activity--Junior/Senior High--Law--Good)

Van Duzer, Tony. A Comparison of Provincial Legal Education Curriculae for Secondary Schools. Unpublished report prepared by the Canadian Law Information Council, 1981.

This study is based on 1979-1980 data from Departments of Education across Canada. Van Duzer includes an objectives section in which he discusses the importance of law education in relation to creating a better understanding of the legal process; a student's role in society; and the development of one's rights and responsibilities within society.

(Reference--Senior High--Law--Weak)

Wisconsin State Department of Education. Crime and the Law: A 12th Grade Social Studies Course. Madison: Waukesha Public Schools, 1978.

This 125-page document outlines a semester-long grade 12 American criminal law course. There are six sections of study, which discuss the legislative process, police actions and procedures, roles of the lawyer, the courts and their processes, and sentencing procedures. Each section contains suggestions for classroom activities such as simulations, role-play and lecture/discussion. Two scripts of Wisconsin-based mock trials are also given. (ED 179 471)

(Reference/Resource--Senior High--Law--Fair)

Wisconsin State Department of Education. Juvenile Delinquency, Crime and Justice--Two 9th Grade Social Studies Units. Janesville: Edison Junior High School, 1978.

This document outlines a three-week unit of study on juvenile delinquency and a seven-week unit on crime and justice. The former focuses on the problems young offenders face when confronting the law, and addresses the difference between juvenile and adult crimes. The latter unit surveys the American justice system and the theory behind punishment and rehabilitation. Simulations are suggested, including several mock trials.

Reference books as well as a teacher's daily outline, complete with teaching objectives, tests, surveys and reading lists, are provided. (ED 179 472)
(Resource-Junior High-Social Studies-Good)

Wisconsin State Department of Public Instruction. "Descriptors for Law-Related Education--A Guide to Asking Questions About Learning Related to Law in Wisconsin Schools, K-12."

Wisconsin Social Studies Curriculum Study Committee, 1979.

This document summarizes the state of law-related education at all levels in Wisconsin Schools up to 1979. It contains several good suggestions for activities at all levels, including role-play, mock trials and visitations. The topics are covered generally. (ED 180 909)

(Reference/Resource-All Schools-Law-Weak)

Wisconsin State Department of Public Instruction. "Mock Trials: Scripts for Wisconsin Lawyers and Teachers." Madison: Wisconsin Bar Association, 1981.

There are seven scripts in this document, written by experienced lawyers, for use in a mock trial at the adult or high school level. The scripts include cases involving auto accidents, drunken driving, homicide, burglary, child abuse, and a landlord-tenant dispute. Each case lists key participants, presents case facts and issues, and illustrates exhibits. The authors feel that no trial should exceed two-and-a-half hours. They stress participation and feel that a great deal should be left to the imagination of the parties involved. (ED 179 473)

(Activity-Senior High/University-Law-Good)

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Journals A-L

Ackerman, Adefe M.; McMahon, Pamela M.; and Fehr, Lawrence A. "Mock trial jury decisions as a function of adolescent juror guilt and hostility." Journal of Genetic Psychology, 144 (1984), 6 (June), 195-201.

This research study examines the participation of 138 college freshmen and 139 junior high school males in a mock trial and a mock jury format. It proves that "the freshmen attributed more of the responsibility for the crime to the defendant and administered less severe sentences than the younger adolescent jurors". (195)

(Research-University-Law-Weak)

Arbetman, Lee and O'Brien, Ed. "From Classroom to Courtroom: The Mock Trial." Update on Law-Related Education, 2 (1978), 1 (Winter), 13-15, 47-48.

This article discusses the procedures involved in designing a classroom mock trial. The authors discuss the rationale for, types of, and preparations needed for, a mock trial. They provide a sample case (criminal law) and illustrate how teachers can use this in developing within their students a clear understanding of the legal system. They discuss elementary mock trials, the importance of debriefing, and mock trial competition. An annotated list of mock trial materials is given.

(Procedure-All Schools-Social Studies-Good)

Banks, James A. "Teaching Strategies for Discussion of Justice in America: Fact or Fiction." Social Education, 37 (1973), 6 (June), 639-643.

The author believes that a study into human rights violations can help students better appreciate their history and the role minority groups play in today's society. Case examples used include slavery, unfair Indian treaties, the Treaty of Guadalupe and unfair immigration practices. Simulations such as role-play are alluded to but no procedures are given.

(Reference-All Schools-Social Studies-Fair)

Barber, Sandra Powell. "A Role Simulation: Escalation of U.S. Troop Commitment in Vietnam, October 1961." Teaching Political Science, 5 (1978), 4 (July), 405-413.

The author has designed a political science role simulation based on the escalation of American involvement in Vietnam in 1961. Barber feels this simulation helps students understand "the basic concepts and factors involved in decision-making, conflict, and conflict resolution." (405) She discusses three basic steps: the initial briefing, the simulation exercise and the debriefing. Barber places considerable stress on the importance of the debriefing stage. A brief section deals with the evaluation of role simulation as a pedagogical technique. This is a good foundation article, illustrating how any topic, or case, can be adapted to this method of teaching.

(Activity-All Schools-Social Studies-Good)

Baughner, Shirley Lewis. "Substance and Procedure: A Simulation Strategy." Law in American Society, 4 (1975), 1 (May), 33-38.

The author uses mock trial simulation "to develop in students an awareness of a fundamental legal principle: that procedure is the essence of justice." (33) This is accomplished by having students play the roles of a king, his court and people. The king initially doles out unreasonable, arbitrary sentences, paying little or no heed to proper legal procedures. Following a coup, the students become members of a "law-review committee" which is responsible for designing new legal machinery for the kingdom. The author provides three mock cases, individual roles and background data.

(Activity-Elementary-Social Studies-Good)

Beatty, Peter G.; Brand, Frank R.; Hamill, Lynn A.; and Hoffman, Stephanie B. "Geriatric: A Role-Playing Game." The Gerontologist, 25 (1985), 6 (June), 568-572.

Although medically oriented, this article does offer some excellent suggestions in working with role-play simulations. The authors define key words such as game, role-play, simulation, etc.; give eight reasons why games and simulations are useful educational techniques; provide the design of a game; describe student reaction to games, and discuss how such a game can be adapted for any profession. The article has a good bibliography.

(Reference-Senior High/University-All Courses-Fair)

Berg, Roger. "A New Model for Law-Focused Education." Social Education, 39 (1975), 4 (April), 163-165.

The author suggests that teachers should conduct courtroom visitations, mock trial and moot court activities as well as more legal

community involvement in the schools, etc. He stresses that legal topics, such as tax law, marriage law and negligence should be developed in the schools. He also stresses the inter-disciplinary approach to law instruction.
(Reference-Elementary/Junior High-Social Studies-Fair)

Berta, David C. "Legal Genius of Junior High Students." Science Teacher, 40 (1973), 58 (March), 58.

This article focuses on an American grade eight physical science course. It gives organization suggestions for a mock trial focusing on three civil law issues: "Resort Owner versus Industrial Plant", "Liability for the Maintenance of a Nuisance (trash-related)", and "City versus Steel Plant (pollution)". No specific trial or case details are given but class format, roles and some supporting documents are suggested.

(Activity-Junior High-Science-Fair)

Bosmajian, Haig. "The Court Opinion: Teaching Reasoning and Communication." The Educational Forum, 49 (1985), 4 (Summer), 451-463.

The author shows that judges' written opinions are excellent documents for developing a variety of student skills, including: (1) clear reasoning, (2) definition, (3) precision, (4) making distinctions, (5) organization, (6) effective wording and phrasing, (7) free speech in a democracy, and (8) some functions of language." (455)

(Reference-Senior High/University-Social Studies-Fair)

Botein, Michael. "Simulation and Roleplaying in Administrative Law." The Journal of Legal Education, 26 (1974), 234-241.

The author discusses the use of mock trial simulation in teaching administrative law, but recommends a greater emphasis on the negotiation process. The article compares this approach with the conventional case study method. Botein supports simulation because, without it, "Students were bored, confused and apathetic; class discussion was non-existent." (233) He cites the importance of preparation and the need for student assistants.

(Reference-Senior High/University-Law-Good)

Bredemeir, Mary E. and Greenblat, Cathy Stein. "The Educational Effectiveness of Simulation Games." Simulation & Games, 12 (1981), 3 (September), 307-332.

The authors provide an extensive literature search and list many of the key variables which must be carefully determined and controlled when determining a game's classroom effectiveness. These variables include game administration; game structure and internal features such as roles; group variables such as size, the presence of a talented leader and group dynamics;

the personalities of the players; the ability of the players as related to both game and academic ability. The authors address the topic of "what should be measured?" in a game. They believe this evaluation involves two areas: substantive learning (consisting of cognitive subject matter learning, affective subject matter learning, and learning about the self) and the motivation to learn. Key to this, and a final important variable, is the learning and gaming atmosphere.

(Research-All Schools-All Courses-Good)

Bryan, Frank M. "Learning Through Conflict: The Mock Trial Experience." Teaching Political Science, 10 (1983), 3 (Spring), 127-135.

The article discusses the author's "time worn" ten year model, used successfully at the University of Vermont. He outlines the goals, course outline (including requirements and grading procedures) as well as a detailed description of the rules and procedures. Bryan discusses several problems he has encountered over the years and offers some suggestions for improvements. He provides sample cases and issues which a class can explore. A complete outline of Bryan's model is given in Chapter Four of this case study.

(Procedure-All Levels-Low-Excellent)

Butschler, Monica. "Finding the 'Fittest' for a 'Survival Law' Curriculum: The Sturgeon Lake Project." The History and Social Science Teacher, 19 (1983), 1 (October), 9-15.

The Sturgeon Lake Reserveye School Committee, in conjunction with the Prince Albert Legal Assistance Committee and assorted professionals, designed materials on law for the students at the Band School. The article describes this development process, outlining the necessity, rationale, people involved, objectives and the actual curriculum. The author describes each of the six packages or units which are: (1) Introduction to Canadian Law (2) Introduction to Criminal Law, (3) Criminal Procedure, (4) Introduction to Law Affecting Indian People, (5) Introduction to Civil Law and (6) Family Law.

(Reference-Junior/Senior High-Low-Fair)

Cassidy, Wanda and Common, Diane. "Indispensable Partners: Teachers and Legal Education--A Case Study." The History and Social Science Teacher, 19 (1983), 1 (October), 17-23.

The authors view the creation of law education materials as a group, not as an individual effort. They feel that for such materials to be successful, five bodies of expertise should be included on a curriculum planning committee, namely: (1) subject-matter experts; (2) students; (3) the

community; (4) the curriculum designer; and (5) teachers. After justifying this concept, the authors describe how the Legal Services Society of British Columbia successfully put it into practice. They briefly touch on some of their successful programs, such as moot court and mock trial.

(Reference-All Levels-Law-Good)

Claugus, Jean Telford. "The Fourth R." Social Education, 40 (1976), 3 (March), 150.

This often-quoted Presidential Address to the National Council for the Social Studies urges educators to think "in reality", Claugus' "Fourth R". She tells social studies teachers to get more in tune with the "real" world and make their classrooms alive and energetic with new ideas.

(Reference-All Schools-Social Studies-Weak)

Coble, Charles R. and Hounshell, Paul. "Teacher-Made Science Games." The American Biology Teacher, 44 (1982), 5 (May), 270-277.

The authors tie together science and social studies in an ecological-democratic societal crisis. They show eight fundamental benefits of using games, and provide educators with a good flow-chart illustrating the eight key steps in designing a game, be it a role-play, board game or quiz show. They outline a role-play game centred around lack of resources within a small democratic American town, describing the ecological problems to be addressed and the key roles to be played.

(Activity/Reference - Junior/Senior High - Social Studies/Science - Good)

Cooper, Phillip J. "Undergraduate Moot Court: A Simulation for Undergraduate Courses in Public Law." Teaching Political Science, 7 (1979), 1 (October), 105-118.

Besides reviewing the traditional moot court format, the author makes a few additions which may be of interest to educators. Firstly, as part of the evaluation process, he describes the procedures each student should follow in the presentation of a brief. Secondly, he provides a time-frame and briefly describes each key step. Thirdly, Cooper lists nine key items teachers should watch for in oral argumentation. These could form the basis of a evaluator's checklist. Finally, he suggests that letters be sent home to parents, in recognition of extra-effort on the part of the students. He also stresses the importance of the initial briefing and the debriefing processes.

(Procedure-Senior High/University-Social Studies-Good)

Dunn, Betty J. "Plea Bargaining: A Game of Criminal Justice." Simulation & Games, 11 (1980), 4 (December), 495-497.

The reviewer notes that approximately 90 per cent of criminal convictions result from guilty pleas. "Plea Bargaining" is a mock trial game played by 12-36 participants over a period of three to four hours. The game kit includes a director's guide, criminal codes, sets of case reports, sets of defendants' case notes, docket forms and a wall chart. The game appears to be slightly restrictive and a fair amount of background information seems to be necessary for it to be successfully used in a classroom setting.

(Activity-Senior High-Law-Fair)

Edwardson, Richard. "A Case Study in Simulation Design: Border Incident." The History and Social Science Teacher, 17 (1981), 2 (December), 233-235.

This article describes a foreign policy simulation used in a grade 11 or 12 social studies class. The author outlines the six basic steps which should be followed in designing a role-play simulation, ranging from the establishment of an objective to group selection. The article provides some insight into another form of role-play and many elements contained in this article could be modified for use in a law-related education simulation concentrating on the legal negotiation processes.

(Activity-Senior High-Social Studies-Fair)

"Environmental Issues: A Courtroom Simulation." Social Education, 37 (1973), 8 (August), 771-775.

This cross-disciplinary activity is designed around a local resource controversy and its legal solution. The author suggests dividing the students into clearly differentiated groups such as advocate, jury, community media and legal alternatives. Each of these have clearly defined roles and exercises to perform during the activity. Specific directions including facts of law, initiation of law suits, pre-trial preparations, the trial and conclusion are concisely provided. Appendices include fact sheets citing various applicable legal codes. Some modification may be necessary in keeping with other state or provincial codes.

(Activity-Junior/Senior High-Science/Law-Good)

Fadley, Ron L. "The Mock Trial as a Motivational Device for Junior High Debate." The Speech Teacher, 24 (1975), 4 (November), 374-376.

This short article summarizes the major steps in developing a mock trial within a junior high school classroom. The article discusses the assigning of roles as well as organization of the trial, court schedule, class assignments and court procedures. He feels that ten class periods is sufficient for the exercise and provides a schedule to be used in that time frame. Fadley also provides a sample case taken from a unreferenced law school source.

(Procedure-Junior High-English/Social Studies-Good)

Farwick, Diane and Terrell-Perkins, Faye. "Curriculum Update: Picking the Right Ones--Good New Materials Abound." Update on Law-Related Education, 7 (1985), 1 (Winter), 17-19.

The authors review the video: "Law in Action--A Criminal Trial" and the video of two mock trials: "B.B. Wolf v. Curly Pig" and "State v. Gold E. Locks". The authors feel these provide students, grades five and two respectively, with an excellent overview of the civil and criminal justice systems. They also review "Street Mock Trial Manual", which provides support material for mock trials in family law, consumer law and a small claims court.

(Reference-All Schools-Law-Fair)

Fleming, Donald J. "The Canadian Round of the Philip C. Jessup International Law Moot Court Competition." University of New Brunswick Law Journal, 30 (1981), 87-197.

The author traces the history of this competition back to its inception at Harvard University in 1960. After briefly reviewing the operation of today's competition, Fleming describes team preparation and provides a time frame for each participating law school to follow.

(Reference/Activity-University-Law-Weak)

Fruman, Sheila. "Conference for Ontario Law Teachers Simulating Schools Program Newsletter--Legal Services Society of British Columbia", 5 (1981), 1 (January), 11.

This article reviews, from a British Columbian point of view, what occurred at a 'Fusion' Conference held in Ontario, October 24-25, 1980. Three hundred secondary law teachers from across Ontario met and exchanged ideas, resources and methodologies. Reference is made to various exercises discussed, including role plays and the production of a package of materials.

(Reference-Senior High-Law-Weak)

Gallagher, Arlene F. "Premises for Law." Social Education, 39 (1975), 3 (March), 156-159.

This article explores various methods which can be used to expose elementary students to basic legal principles, including "the purpose of law" and "how the purpose is achieved or defeated by the legal process". The author suggests student activities such as sign walks, individualized field trips, a park simulation game and role play. Special attention is given to a mock trial simulation entitled, "No vehicles in the Park", involving six cases presented in contravention of a local statute prohibiting vehicles from

parking in a local park. A role-play simulation involving a discussion between students and the school principal over a school rule is also given.
(Activity/Resource-Elementary-Social Studies-Good)

Gallagher, Arlene F. "Pro Se Court: A Simulation Game." Law in American Society, 2 (1973), 2 (May), 26-30.

The author views pro se courts as a means of breaking down the complicated rules of procedure in a mock trial and then slowly rebuilding them in a more clearly understood fashion. In this model, rules of procedures are kept to a minimum, allowing the student to focus on what the author sees as the essence of judicial decision-making: "deliberation on the issues of a case." He feels that by eliminating the complexities of courtroom procedure and rules of evidence, fewer teachers will be discouraged from using mock trial as a teaching strategy. He provides teacher instructions, game design, role descriptions and four sample cases involving minor issues such as damaged goods failure to provide services, etc.

(Activity-Elementary/Junior High-Social Studies-Excellent)

Gaubatz, John T. "Moot Court in the Modern Law School." Journal of Legal Education, 31 (1981), 87-107.

The author, a long time supporter of moot courts, discusses benefits of moot courts, including the development of the art of briefwriting and oral advocacy skills. He cites several examples of the academic benefits of the exercise, such as analysis and synthesis of cases. He outlines a three year moot court program based on his eight years' experience. Gaubatz recommends more research and development of moot court programs as credit courses, and suggests the institution of rewards such as prizes to make moots even more enticing to students.

(Reference/Procedure-University-Law-Good)

Gentry, James W. "Group Size and Attitudes toward the Simulation Experience." Simulation & Games, 11 (1980), 4 (December), 451-460.

This research paper deals with the effect that group size has on the performance of a team within a role-play simulation. The author concludes "that smaller groups (two or three members) work better than four-member groups in a simulation game in terms of minimizing group dissension." (458) The paper consists of an experiment involving 148 Business Logistics students over two semesters. The article adds reinforcement to keeping "teams" of students in a mock trial simulation to a small size, thus minimizing dissension and other related problems.

(Research-Senior High/University-All Subjects-Good)

Germain, Kenneth B. "Legal Writing and Moot Court, at almost no cost: The Kentucky Experience, 1971-72." Journal of Legal Education, 25 (1973), 595-611.

The author outlines the various areas suitable to be covered in a moot court, such as torts, civil procedure and criminal law. As well, he breaks the program into two phases: "the legal writing phase" and "the moot court phase". He indicates the assignments involved in each phase and attaches sample grading sheets which are adaptable to a similar activity at any level. An excellent time-frame, procedural outline for a moot court and sample letters are also included.

(Procedure/Reference-Senior High/University-Law-Excellent)

Glenn, Allen D., Gregg, Daniel and Tipple, Bruce. "Using Role-Play to Teach Problem Solving." Simulation & Games, 13 (1982), 2 (June), 199-209.

This research paper describes the results of a study involving 307 Minnesota public school students. The findings of the study suggest that when seeking to teach students something, clearly identifying what it is, teaching effectively, providing practice opportunities, and giving additional feedback are associated with higher levels of student performance. When properly used, role-play activities may not only stimulate student interest, but may also involve students in an active learning situation that may teach them specific skills." (208-209) The role-play activities centre around several legal issues such as the Japanese-American internment during World War II. This research paper provides factual research which illustrates to all teachers, especially those involved in law-related education, the merits of activities such as mock trials, moot courts, etc.

(Research/Reference-Junior/Senior High-Social Studies-Good)

Gormley, W. Paul. "International Moot Court Competition." Journal of Legal Education, 17 (1965), 333-336.

The author discusses the evolution of, and procedures used in, the International Moot Court Competition held between Canada and the United States. He supports the activity as very important in developing oral appellate argumentative skills as well as in providing a significant insight into a foreign legal system. He provides a good review of the competition format and provides observations made by faculty and students.

(Reference-Senior High/University-Law-Fair)

Graham, Michael H. "The Trial Advocacy Program Experience at Illinois: Excellence in the Teaching of Many at an Affordable Price." Journal of Legal Education, 29 (1978), 584-592.

This article describes how of a trial-advocacy program using moot court can work successfully in a law school over one academic year. The author divides the program into two sections: fall--when students learn the "intellectual, ethical, emotional and physical demands of being a trial lawyer" and undertake a "series of short courtroom exercises"; and spring--when students are kept busy "preparing and trying a case before a presiding judge of the State of Illinois." (589)

(Procedure/Reference-Senior High/University-Law-Fair)

Haagan, Lucy E. "English Class as Courtroom." English Journal, 71 (1982), 4 (April), 77-79.

The author suggests that educators rethink Piaget's approach to legal education and focuses her article on the importance of using law-related topics as a stimulus in the classroom. "Trial enactments force students--even the habitually reticent--into active roles and, once committed, students become enthusiastic. In their enthusiasm, they are more receptive to the speaking, writing, and reading skills that justify including trial enactments in language arts programs." (77-78) In her article she describes the procedures needed in mock trial and reviews several suggestions for in-class trials using existing English textbooks, such as "Lord of the Flies", "Tom Sawyer", "The Count of Monte Cristo", etc.

(Reference/Procedure-Junior High-English-Excellent)

Hardy, Richard J.; King, James D.; and Riddlesperger, James W. "The Presidential Selection Process: Role-Playing in a Large American Government Class." Simulation & Games, 13 (1982), 4 (December), 451-467.

The authors describe the use of role-play to teach students the complicated process by which an American president is selected. The simulation game involved more than 700 undergraduate students and illustrates that the technique is adaptable to any size class. The students were involved in considerable speaking and negotiation exercises. In general, the authors stress that in order for any simulation to be successful, the teacher(s) must be devoted and enthusiastic, approaching the exercise with positive expectations. Post-simulation questionnaires showed that 84 per cent of the students preferred simulation over traditional lecture format and 89 per cent felt it had increased their interest in American politics.

(Procedure/Research-Senior High/University-Social Studies-Good)

Henning, Joel F.; Maxwell, Richard C.; and White, Charles J. "Law Studies in the Schools." Journal of Legal Education, 27 (1975), 157-167.

This article tends to serve as a description of the state of legal education in the United States in 1975. The article summarizes the work being done by several agencies such as the Law in American Society Foundation. There is a brief section on "clinical" programs, such as role-playing, mock trials, etc.

(Reference-All Levels-Law-Weak)

Hollander, Patricia A. "The Simulated Law Firm and Other Contemporary Law Simulations." Journal of Legal Education, 29 (1978), 311-351.

This relatively new legal teaching technique started at State University of New York in 1974-75. This paper summarizes the various modes this activity took at both State University and at the Buffalo Law School. In a second section, the author provides a brief historical review of various simulations used in teaching, such as the case method, mocks and moots, computers and assorted teaching machines. The author also describes simulations being used in the social sciences involving political science, family life, foreign affairs, management, sociodrama and psychodrama programs. A final section provides a role-play simulation involving a labor-management contract negotiation and a review of the computer simulation designed by "The Club of Rome", which dealt with predicting world population systems in the future.

(Procedure/Activity - Senior High/University - Social Studies - Excellent)

Hollins, Etta R. "Simulation Review: Trial Lawyer, The Jurisprudence Game." Simulation & Games, 11 (1980), 3 (September), 378-379.

The reviewer describes "Trial Lawyer" as a board game which comes complete with "dice, stop and frisk cards, indictment cards, defense cards, search warrant card, Fifth Amendment card, money and game instructions. The reviewer notes that it can be played successfully by sixth graders as well as adults after two or three rounds.

(Activity-All Levels-Law-Fair)

Holstein, James A. "Jurors' Interpretations and Jury Decision Making." Law and Human Behaviour, 9 (1985), 1, 83-100.

This research paper reviews a study undertaken with mock jurors in order to determine the various decision-making processes used within the jury rooms of the nation. This article uses conversational data from simulated jury deliberations to describe jurors' practice of articulating schematic interpretations as accounts for their verdict choices, and as a means for persuading other jurors. (83)

(Research/Procedure-University-Law-Weak)

Hou, Charles. "The Death's-Head Pin: Using a Mock Trial to Introduce the Caribou Gold Rush." The History and Social Science Teacher, 18 (1983), 3 (March), 172-178.

This article provides a method by which to introduce students to British Columbia's Caribou Gold Rush through the recreation of a famous murder trial. Hou describes the case "Regina versus Barry" by providing teachers with case background, role descriptions and proper trial procedures. As well, the author lists 11 follow-up activities to this mock trial. It provides social studies teachers with a framework for using mock trial to teach any legally-related case applicable to their province in a junior or senior high school classroom.

(Activity-Junior/Senior High-Social Studies-Good)

Hrybyk, Catherine R. "Nora Helmer on Trial." English Journal, 72 (1983), 3 (March), 42-45.

In this article, the author describes how she used a mock trial to stimulate her students' interest in the novel A Doll's House. By placing the novel's tragic heroine, Nora Helmer, on trial, the author discovered that "the interest level was so high that I virtually had to hold it back lest it run away with us." (45) In this article, Hrybyk takes educators through the steps she used in the mock trial by relating it to the class' experience. She provides the reader with actual excerpts from the class transcript. No evaluation procedures are given, but the author does provide English teachers with an excellent foundation for using a mock trial based on any novel.

(Activity/Procedure-Junior/Senior High-English-Excellent)

Hunsaker, David M. "Law, Humanism, and Communications: Suggestions for Limited Curricular Reform." Journal of Legal Education, 30 (1980), 417-435.

The author addresses the missing values in legal education, the need for communication skill development for a basic humanistic communication skills curriculum. After exploring each of these areas, the author briefly outlines a proposed course which could address this need over a three-year law program. The article has several interesting and applicable references to moot court and mock court, and an excellent appendix which provides the scoring sheet used in the "Mock Law Office Simulation", designed in 1969 by Professor Louis Brown at the University of Southern California.

(Procedure/Reference-Senior High/University-Law-Good)

Ianni, R. W. "Reflections on the State of Public Legal Education in Canada." Canadian Community Law Journal, 1 (1977),

8 (August), 3-11.

This article outlines some of the highlights in Canadian legal education from 1970-1977. The author outlines what he sees as the future direction that law should be taking in Canadian public education. He stresses that law must be taught as a process rather than as a set of unrelated rules.

(Reference-All Levels-Law-Weak)

Johnson, Marianne and Nelson, Thomas M. "Game Playing with Juvenile Delinquents." Simulation & Games, 9 (1978), 4 (December), 461-474.

The article describes three games: "Roles", "Justification", and "Penalties", which were used in a controlled setting with 14 male juvenile delinquents. Although the sample was small, the authors concluded that the use of role-playing games broke down communication barriers between the counsellors and the young offenders. The researchers also noted that there was some positive attitude change on the part of the delinquent participants after they played the role of another person such as the parent, the police, the counsellor, etc. The authors provide the reader with an excellent background, description of rules and roles, results and a general discussion on the topic.

(Research/Reference-Junior/Senior High-Guidance-Good)

Joseph, Pamela. "Value Conflicts in Law-Focused Education: The Problem of Teacher Anxiety." Social Education, 39 (1975), 3 (March), 166-168.

The author describes the pros and cons of various approaches usually taken by teachers in handling this situation, such as ignoring the actual reason for the conflict, by being dogmatic, expressing anger, etc. Contentions and teacher reactions are commonplace in law-related education and are, the author feels, a major contributing factor to teacher anxiety.

(Reference-Elementary-Social Studies-Weak)

Kassin, Saul M. and Wrightsman, Lawrence S. "The Construction and Validation of a Juror Bias Scale." Journal of Research in Personality, 17 (1983), 423-442.

Based on two mock trials, the authors feel they have devised an such a method which, if administered to prospective jurors prior to *voir dire*, could assist the lawyers in juror selection. The authors noted weaknesses in the instrument. It worked well in predicting the outcome of a conspiracy trial, but failed to do so in a rape trial. The actual questionnaire could be of interest to law educators, in that it could be easily modified for a classroom experiment.

(Research/Reference-Junior/Senior High/University-Law-Fair)

Katsh, Beverly J. and Katsh, M. Ethan. "Preventing Future Shock: Games in Legal Education." Journal of Legal Education, 25 (1973), 485-491.

The authors provide an overview of the role of games in legal education at the law school level. The article outlines the value of simulation games, whether they be casebook, moot court, mock trial, board game or computer-based. The authors view simulations as a method to increase student motivation and interest.

(Reference-Senior High/University-Law-Fair)

Katsh, Ethan; Ronald M. Pipkin; and Katsh, Beverly Schwartz. "Classroom Strategies--Guilt by Negotiation: A Simulation of Justice." Law in American Society, 3 (1974), 2 (May), 23-28.

This article summarizes a classroom simulation game centred around plea bargaining. The authors outline the game objectives, class preparation, roles, set-up, playing procedures, after-game discussion, and several variations which may be utilized. In addition, they provide two sample reports, client sheets, and a "distribution of case diagram". They feel that the game allows students to "develop a better understanding of negotiation, compromise, and decision-making."

(Activity/Procedure-Junior/Senior High-Law-Good)

Kindred, Hugh. "Law for Everyone for the Librarian." Dalhousie Law Journal, 6 (1981), 3 (May), 699-710.

This article is directed at librarians, be they employed by a community, school or university. The author feels the key problem facing law students is access to the law. He has isolated three components in this access: "the law; the reader or student with a problem; and the librarian". What Kindred tries to do in this article is to bring these three together by addressing four elements: "What are the resources?"; "Where are they?"; "How do you get at them?"; and "How can you (the librarian) use them to the reader's benefit?" This article would be of invaluable assistance to a school librarian or law teacher trying to determine sources of legal materials in Canada.

(Reference-All Levels-Law-Excellent)

Kindred, Hugh. "Legal Education in Canadian Schools." Dalhousie Law Journal, 5 (1979), 2 (May), 534-542.

The author quickly surveys the state of law education in Canadian schools. He feels that many of the existing law courses need to change to meet the demands of an ever changing society. To accomplish this, he feels

both teachers and lawyers must work together to ensure academically sound programs. This, he stresses, should be an ongoing dialogue.
(Reference-Senior High-Law-Weak)

Kindred, Hugh M. "Law Teacher-Training Experiments in Nova Scotia." The History and Social Science Teacher, 19 (1983), 1 (October), 3-7.

This article summarizes a month-long teacher workshop held in Halifax, Nova Scotia just after the Nova Scotia Guidelines for Law 341 were published. The author recommends this type of teacher training workshop, in that it gives educators a first hand opportunity to work with legal professionals. As well, this exercise allows teachers to develop legal research skills while being exposed to legal sources.

(Reference-Senior High-Law-Fair)

Kindred, Hugh M. "The Aims of Legal Education in High School." Canadian Community Law Journal, 3 (1979), 20-25.

This article summarizes the author's personal opinions and his review of the high school law curriculum in Nova Scotia schools. Kindred lists and briefly discusses four objective areas: knowledge, skills, attitudes and knowledge. The paper is a summary of the introductory section of the Law 341 program of studies presently in use in Nova Scotia schools.

(Reference-Senior High-Law-Fair)

King, Donald B. "Simulated Game Playing in Law School: An Experiment." Journal of Legal Education, 26 (1974), 580-587.

This research study involved 45 law students in a series of commercial law simulation games. These used both a legislative hearing format and a moot court structure. The author outlines court procedures, classroom setup, time-frame, student involvement with the program and peer relationships. The author concluded, based on a student survey, that simulations of this type generate greater student interest and motivation in the course.

(Reference/Research-Senior High/University-Law-Fair)

Lamont, Robert M. "The Justice in America Session." Law in American Society, 1 (1987), 1 (May), 21-24.

This article describes the results of a workshop held in the summer of 1971. The article briefly summarizes topics such as the case method, the value of visiting speakers, field trips, mock trial, lecture, and morals. The author noted that the use of mock trial was substantially agreed upon as a valuable teaching tool and that it strongly appealed to students. Several variations on this are suggested.

(Reference--All School Levels--Law--Fair)

Leginsky, Victor P. "Law in the Schools--Criminal Justice Education Project." Resource News, Legal Resource Centre, University of Alberta, 5 (1978), 1, 21-22.

This research study involved about 50 Alberta schools in which the author wanted to determine if there were any specific needs that teachers had in dealing with law-related education. The author concludes that there should be more interplay between the legal community and the teachers; more community-school visitation as well as the production of more basic student materials with basic legal information.

(Reference/Research--All School Levels--Law--Weak)

Letwin, Alita Z. "Invisible Property--Can you own what you can't touch?" Update on Law-Related Education, 2 (1978), 1 (Winter), 11-13, 60-63.

The author explores the two types of property (tangible and intangible) and how mock trial can be used to teach students the concept of ownership. The article starts with "laying the groundwork"; in this section, typical ideas for elementary, junior and senior high school students are presented for discussion. The next two sections deal with "strategy" in which three sample cases: "Who owns the news?", "What's art worth?", and "That's our idea," are given for classroom study and trial.

(Activity/Resource--All School Levels--Social Studies--Good)

Levine, Henry D. "Evaluating the Ames Experience: Student Response to the First Year Moot Court Competition at Harvard Law School." Journal of Legal Education, 28 (1976), 216-222.

This research study involved 142 students selected from 200 first year law students at Harvard. It concluded that most students liked moot court, but admitted improvements, such as case variations, were needed. The students found faculty judges superior to those drawn from other faculties or outside attorneys. A copy of the research instrument and analytical equations are given.

(Research--University--Law--Good)

Leyser, Yona. "Role-Playing--Path to Social Acceptability?" The Elementary School Journal, 79 (1979), 3, 158-166.

Leyser stresses the importance of workshop-training for teachers before the use of role-play in their classrooms. She feels this increases teachers' confidence and eliminates any reluctance they may have in using this technique. Secondly, Leyser believes role-play has to be used over a

long period of time She stresses more teacher training in the use of role-play as a cross-disciplinary method.

(Reference/Research-Elementary-Social Studies-Fair)

Little, Timothy. "A Simulation to Launch a Study of Law and Consumerism." Social Education, 39 (1975), 3 (March), 159-62.

The author describes how a simulation game, Truth in Advertising, allows student to get a clear insight into the rules which govern fair practices in the marketplace. Centred around the Federal Trade Commission, the students role-play judges, defense or prosecuting attorneys in a series of "mini-commissions" which investigate whether or not an advertisement is false or deceptive and thus should be prohibited. The author outlines the teachers' instructions, classroom organization, and procedures involved in the simulation. In addition, the author provides debriefing, follow-up activities and an appendix showing typical role cards and complaints to be heard before the commission.

(Activity/Procedure-Elementary/Junior High-Consumer Education/Law-Excellent)

Little, Timothy. "Truth in Advertising: A Classroom Simulation." Law in American Society, 3 (1974), 4 (November), 42-46.

This article is almost the same as the one above, referred to in Social Education. However, the author, in addition to accomplishing everything in the previous article, provides the reader with a better outline of the fact-sheet appendices and role cards.

(Activity/Procedure-Elementary/Junior High-Consumer Education/Law-Excellent)

ANNOTATED BIBLIOGRAPHY

Journals M-Z

Mabry, N. Kemp. "Use of Mock Trial for Teaching Geometry." Education, 97 (1976), 2 (Winter), 199.

The author describes how he used a mock trial to reinforce and clarify geometry lessons. Using traditional court procedures and roles, the "accused" was examined on various geometry theorems or problems from which charges of "fuzzy thinking" or "carelessness" had been laid. Regular roles, including judge, defence, prosecutor, sheriff, police and jury were used. The author notes that there was no class disruption in the two-week exercise and considerable student interest and increased learning.

(Activity-Senior High-Math-Good)

Macdonald, R. A. "Law Schools and Public Legal Education: The Community Law Programme at Windsor." Dalhousie Law Journal, 6 (1981), 3 (May), 779-789.

The article describes the projects undertaken, such as seminars, speakers, videotapes, films, pamphlets and the integration of public legal education into the law school. One recent development at Windsor has been a booklet on moot courts and mock trials, suitable for the public schools.

(Reference-University-Law-Weak)

Mandolini, Ann F. and Szafran, Robert F. "Test Performance and Concept Recognition." Simulation & Games, 11 (1980), 3 (September), 326-335.

This research paper documents the results of an experiment involving 180 members of an introductory sociology course at the University of Iowa using the game "SIMSOC: Simulated Society". The researchers wanted to determine if the use of such a game had any effect, either positive or negative, on test performance and concept recognition as compared to traditional presentation. The researchers determined that there was little or no effect but they cautioned that "...its effect on student motivation and interest, affective learning, and other areas must be also considered." (334)

(Research-Senior High/University-Social Studies-Good)

Martin, David S. "Five Simulation Games in the Social Sciences."

Simulation & Games, 10 (1979), 3 (September), 331-349.

One of the games discussed is "Moot", produced by Gary Zaresky in 1972. It features three mock crimes based on drug abuse, civil law and school law. On the surface, the game appears similar to "Plea Bargaining" (Dunn, 1980), except that it requires "three to five weeks of social studies teaching time to carry out." The trials follow the lines of "real" courts and thus provide students with good insight into the American justice system. The reviewer notes, however, that there are several problems with the game. Firstly, "...no guidance is given for the teacher on how to help students establish criteria for judging the worth of laws." Secondly, "one problem for students has been the unavailability of further information about their roles. More able students find this frustrating in terms of leaving many unanswered questions."

(Activity-Junior/Senior High-Law-Good)

Martz, Carlton S. "Moot Court-Parducci v. Rutland." Social

Education, 39 (1975), 4 (April), 212-213.

This article describes how to set up a moot court based around a case in which an Alabama high school teacher was told by school administrators not to teach the short story: "Welcome to the Monkey House" by Kurt Vonnegut, Jr. The teacher, Ms. Parducci, was fired when she refused to comply but she fought the dismissal in a federal court and got her job back. Martz briefly describes the case, how to set up the moot court, the student roles, case precedents, and several inquiry questions.

(Reference-All Schools-Law/English-Good)

Matheson, Cheryl. "Teacher Programmes of the Legal Resource

Centre of Alberta." The History and Social Science Teacher,

19 (1983), 1 (October), 25-28.

This article reviews a two-year program undertaken by the centre "to develop a model for teacher training and the production of classroom materials in law and law-related education." (25) The article addresses a "needs assessment" undertaken in the province's schools and the various programmes which were developed to meet these needs. One of these was the production of a mock trial kit.

(Reference-All School Levels-Law-Weak)

Matheson, Kenneth. "Sources and Resources for Teaching about

Justice in America: Fact or Fiction." Social Education,

37 (1973), 6 (June), 642-643.

Matheson feels that law has been neglected in the curriculum because of "(1) The lack of good student materials. (2) The lack of teacher training in

content and techniques necessary to teach effectively about the law." (642)
 Matheson reviews several books and games which were available in 1973.
(Reference/Activity-All School Grades-Law-Fair)

Matton, Ronald. "Teaching Communication in the Legal Process."

Communication Education, 30 (1981), 10 (October), 399-409.

This article summarizes a legal communication course which the author feels should be offered at every law school. He divides this course into five units, starting with an introduction of communication theory and the legal process, moving to actual practice in the trial process, and ending up with a discussion of specialized topics such as appellate courts and nonverbal communication. Using a mock trial format, he addresses seven topics of communication skill development: trial introduction, voir dire, opening statements, examination of witnesses, closing arguments, judge communication and jury deliberation.

(Reference/Procedure-Senior High/University-Law-Good)

Matton, Ronald J. "Bridging the Gap Between Communication

Education and Legal Education." Communication Education,

31 (1982), 1 (January), 39-53.

Throughout this article, the author is very critical of the lack of communication skill instruction being offered in North American law schools. He provides an excellent history of legal education and shows why communication skills have taken a low profile since the turn of the century. He stresses the importance of mock trial and moot court for developing trial advocacy skills. As well, he reviews several such programs now underway in the United States. He makes suggestions for such program development both within the confines of the law school and in the community as whole.

(Reference-Senior High/University-Law-Good)

Matton, Ronald J. "Communication in the Legal Process: A Pre-Law

Course at the University of Arizona." Journal of Legal

Education, 31 (1982), 589-603.

This article summarizes a legal communication course which the author feels should be offered at every law school. (Same as the article in Communication Education just annotated, with a few slight grammatical differences.) Using a mock trial format, he addresses seven topics of communication skill development: trial introduction, voir dire, opening statements, examination of witnesses, closing arguments, judge communication and jury deliberation.

(Reference/Procedure-Senior High/University-Law-Good)

McBath, James H. "Speech and the Legal Profession." Speech Teacher, 10 (1961), 44-47.

In this article, McBath echoes the feelings of many other communication educators who feel that communication courses should be offered in all law schools. Naturally, this would be accomplished through the use of mock trial, moot or appellate courts.

(Reference-University-Law-Weak)

McCroskey, James C. "A Summary of Experimental Research on the Effects of Evidence in Persuasive Communication." Quarterly Journal of Speech, 55 (1969), 169-176.

The author summarizes twelve studies, personally conducted, on the effects of evidence in persuasive communication. This article shows the effects of evidence, delivery of evidence, source credibility and media of evidence presentation on the attitudes of an audience. Each of these elements are critical for the success of lawyers, educators and debaters.

(Research-Senior High/University-Law-Good)

Mills, Glen. "Legal Argumentation: Research and Teaching." Western Journal of Speech Communication, 40 (1976), 83-80.

Professor Mills suggests a legal communication course and provides a unit-by-unit outline for teaching legal argumentation. This, he proposes, should run along the lines of the steps a lawyer would follow in preparing a case, commencing with the interview phase and ending with closing arguments at the appellate level. The author sees his paper as only the start, and hopes others will participate in developing such a course in the future. Several aspects of this article can be modified to develop an evaluation methodology for mock trial and moot court.

(Reference/Procedure-Senior High/University-Law/English-Good)

Murphy, Terry G. "A Prototype Proposal for Grade 13 Law." Canadian Community Law Journal, 2 (1978), 26-34.

In this article, the author outlines a new course in Canadian law at the Ontario grade 13 level. The article provides an overview of the course, including values in legal education, use of community resources, individualized instruction and a sample unit on contract law.

(Reference-Senior High-Law-Fair)

Ortwein, Bernard M. "Teaching Negotiation: A Valuable Experience." Journal of Legal Education, 31 (1981), 108-139.

The author reviews early attempts to integrate negotiation courses into law curriculum of American law schools. He presents his negotiation course, which should be available to second and third year law students.

Much of this new course consists of a "mock negotiation" methodology wherein the class is broken into small groups to simulate the negotiation process. Incentives, procedures, and sample topics are given.

(Reference/Procedure-University-Law-Fair)

Perlstein, Jolanta Juskiewicz. "Sentencing Criminal Defendants by College Students: An Experiment in Disparity of Treatment." Teaching Political Science, 5 (1978), 4 (July), 447-456.

In this research paper, the sentencing practices of student mock judges are compared with those of real judges. After being exposed to four cases, both sets made decisions and sentenced the criminals involved. The study shows that both groups were identical in the range of sentences given. The experiment was seen as an "invaluable experience ... permitting students to empathize with the real judge. ... (T)hey could also vicariously share the same responsibility accompanying the decision which determines the fate of defendants. The exercise was not only valuable as an analytic instrument of the substance of sentencing, but also in relaying the utility of such methodology." (447) The paper provides a good example of "role-playing" being used in a research study.

(Research/Reference-University-Social Studies-Good)

Rafalko, Walter A. "Neorealism in the Appellate Moot Court Program." Journal of Legal Education, 19 (1966), 107-111.

This article argues that American law schools should put more "realism" into their programs of studies. The author outlines a proposed course which he called an "appellate program", designed to "acquaint the students with the whys-and-wherefores of sound oral argument and the development of brief writing." (108) He provides a course outline, which he feels would benefit second and third year law students.

(Reference-University-Law-Fair)

Robinson, J.N. "Are Economic Games and Simulations Useful?—Some Evidence from an Experimental Game." Simulations & Games, 9 (1978), 1 (March), 3-22.

The author, in his introduction, makes two points which are very significant for teachers involved in designing law-related education simulations. Robinson believes simulation games involves "...finding the answer to questions of the 'what would happen if' kind, and to this extent is one of the oldest teaching methods." (5) But, perhaps more importantly, Robinson addresses game evaluation. The author is very critical of the lack of evaluation techniques to determine whether a game is useful or not. He offers several suggestions for evaluation of games in both a "broad" and

"narrow" sense, which should be of interest to all social studies teachers involved in role-play and other simulation games.

(Reference/Research-Senior High/University-Social Studies-Good)

Robinson, Peter G. "Role-Playing and Class Participation," English Language Teaching Journal, 35 (1980), 1 (October), 384-387.

In this article, Robinson addresses the topic of role-play in a cross-disciplinary way. Besides illustrating the value of such an activity, he stresses the importance of permitting the students to improvise in their roles. As well, he notes: "...the student must never become the role: this is dangerous for him and others. He must be in it enough for it to seem real, and outside of it to control and talk about it. ... Role-playing, when done properly, enables students to maximize their language potential through using language in a real-life manner." (385)

(Reference/Procedure-All Levels-All Courses-Good)

Romanos, Michael "Undergraduate Planning Curricula--Is Gaming the Answer?" Simulation & Games, 9 (1978), 1 (March), 89-106.

This article reviews a simulation loosely based on a moot court format. Students enrolled in an Urban and Regional Planning Course were involved in a city's attempt to annex a large shopping area. The students adopted roles of developers, merchants, environmentalists, etc., and presented their "cases" at a "public hearing". The author saw the exercise as very useful in conveying the complexities of urban planning as well as giving the students a legal background in dealing with such an issue. The article has an excellent schematic diagram tracing the 14 steps followed by the students. Such a diagram is of great use to any educator planning a similar role-play simulation. Apart from the overwhelming student support for the simulation (96 per cent), Romanos saw it as a valid learning tool: "Concepts such as social justice, market economics, conflict resolution, and political trade-offs were made far more meaningful to those students than would be the case if reliance were placed solely on lectures." (104)

(Activity/Research - Senior High/University - Social Studies - Excellent)

Sacks, Howard R. "Human Relations Training for Law Students and Lawyers." Journal of Legal Education, 11 (1959), 317-325.

This article describes the Professional Relations course at Northwestern University Law School. The author analyzes the need for, and feasibility of, human-relations training for lawyers and law students. He provides a good account of the course by describing its goals, methods and

results. The program uses simulations and role-playing extensively in the lawyer-client relationship.

(Reference-University-Law-Fair)

Saegesser, Francois. "Simulation-Gaming in the Classroom."

Simulation & Games, 12 (1981), 3 (June), 281-294.

This article focuses on the importance of time, spatial organization and methods of evaluating learning in relation to simulations and games. This Geneva-based article addresses the difficulty in evaluating skills when utilizing games. The author provides tips for using games within rigid time restraints and how to make a classroom more conducive to this activity. Although considerable time is spent on the philosophical issue of evaluation, the reader is left to devise his or her own evaluation methodology.

(Reference-All Levels-All Courses-Good)

Shadiack, Louis. "Copernicus in Court." Science and Children,

13 (1975), 1 (September), 8.

The author describes how he used a mock trial as an inter-disciplinary exercise to promote the performance objectives in both science and social studies. The students used a mock trial to decide whether Copernicus' theory of the sun being at the centre of the universe was contrary to the scientifically accepted Geometric Doctrine of Ptolemy of the day.

(Activity-Junior High-Science/Social Studies-Fair)

Shawn, Karen. "The Case of The Scarlet Ibis: Making the Best of Jury Duty." Teachers and Writers Magazine, 11 (1979),

3 (Winter), 2-7.

The author, like thousands of other teachers annually, is called for jury duty. Her junior high school class does not like the idea of her leaving them for two weeks and consequently present problems for the substitutes. Confronted with this, the author tells her classes what she is doing and describes the workings of the legal system. After being away for two weeks as a juror, she and her class conduct a mock trial of "James" in "The Scarlet Ibis." The article describes the sequence of events, the in-class dialogue, the excitement of previously lethargic students and the positive effects of such an innovation on previously troublesome students.

(Activity/Procedure-Junior High-English-Excellent)

Sherman, Jack. "The People vs The Predators." The American Biology Teacher, 35 (1973), 4 (April), 293.

The author describes how he used a mock trial to explain to his ninth grade biology class the importance of predators in the environment. "The People vs. the Predators" took two weeks, during which the class, divided

into two groups, the defense and the prosecution, collected evidence and witnesses from throughout their community to support their respective sides. The jury, selected from another class, did not reach a verdict because it felt that man needs to learn more about the environment before he starts to eliminate its members. The author maintains it was a very successful inter-disciplinary exercise, bringing together legal and scientific expertise and enabling his students to come to grips with a previously complex issue.

(Activity-Junior/Senior High-Science-Good)

Stamper, W. Robert. "Role-Playing in the Biology Classroom." The American Biology Teacher, 35 (1973), 5 (May), 251-253, 295.

The author describes how he used role-play to explore the industrialization of a seaside town and population control. In the former, he uses a mock trial format in which the town council is pitted against a range of citizen opponents. The latter uses an appellate format through a congressional hearing in which two groups (one for, and one against) argue the merits of population control. Procedures, role assignments, and background material are provided.

(Activity-Senior High-Science-Excellent)

Stone, Elizabeth Walker. "Communication Skills Offerings in American Law School." Journal of Legal Education, 29 (1978), 238-285.

Faced with the prospect of starting a new Communication Skills Program, the author reviews the results of a survey of similar programs at law schools across the United States. A copy of the instrument is provided. The study, based on 119 out of 200 respondents, concludes that such a course is warranted, with emphasis to be placed on both writing and oral skills. One of the eight recommendations noted that moot court should be a credit course and that the school should be more involved in moot court competitions.

(Research-University-Law-Weak)

Swiger, Elinor Porter. "Interest in Animals as a Law-Study Stimulus." Law in American Society, 3 (1974), 2 (May), 28-30.

This article explores how teachers can develop law-focused educational activities with students as early as the primary level. The author suggests teachers use things which are familiar to the students in these studies, such as pets and wild animals. She discusses program goals and provides several question and answer outlines such as "Why can't I have a

horse in town?" The methodology is pure discussion but opportunity can be provided for role-play or mock trial modification.

(Activity/Reference-Elementary-All Subjects-Good)

Thurman, Ruth Fleet. "A Blueprint for a Legal Research and Writing Course." Journal of Legal Education, 31 (1981), 134-139.

The author describes a course which was developed at Stetson University College of Law. The research and writing classes feature topics such as correct citation form, opinion letters, the appellate process, briefs and oral argument. The assignments run in "logical sequence to the week-long freshman moot court competition." (135) The author believes that this format provides a positive benefit to the course, in that students view the moot courts as a "high-interest and prestigious activity." (139) Assignments, schedules and evaluation techniques are discussed. Many sections of this article can be adapted to an evaluation process for mock trial and/or moot court in the schools.

(Reference/Activity-Senior High/University-Law-Good)

Trakman, Leon E. "Law Student Teachers: An Untapped Resource." Journal of Legal Education, 30 (1979), 331-357.

The author describes the benefits to a law faculty of having senior students take on the role of teachers within the law schools. He stresses that these student teachers are especially helpful in moot court and similar clinical legal programs. He also addresses the use of these senior law student teachers in high schools and other areas where law-related education is being undertaken.

(Reference-University-Law-Fair)

Wade, Eugene Howard. "The Development of a Mock Trial." Journal of Business Education, 45 (1970), 8 (May), 339-340.

The author describes how he successfully used a mock trial in his high school business law course. Wade takes a step-by-step approach, providing suggestions as to how a teacher can stimulate both interest and motivation in students and colleagues. A time-frame, trial agenda, roles (method of selection), use of outside expertise (lawyers, etc.), and a description of the concluding trial are provided. No sample cases or evaluation suggestions are given.

(Activity/Procedure-Senior High-Business/Law-Good)

Walker, George K. "Developing Appellate Advocacy Programs at Wake Forest University's School of Law." Journal of Legal Education, 29 (1977), 78-95.

Walker describes the organization of a moot court board made up of second year students, and their assistance to younger students in the program. Walker also illustrates how this has been successful in inspiring excellence within his students and how interest boiled over into extra-curricular activities such as moot court competitions and community projects. Procedures, evaluation techniques and a time-frame are provided.
(Reference-University-Law-Fair)

Watson, Hugh J. "An Empirical Investigation of the Use of Simulation." Simulation & Games, 9 (1978), 4 (December), 477-482.

This research paper explores the use of simulation, including role-play, in various educational programs across the United States. The research paper is of interest in that it documents the widespread use of games at the tertiary level and how the trend is increasing annually.

(Research/Reference-University-Social Studies-Weak)

Williams, Donald E. "Group Discussion and Argumentation in Legal Education." Quarterly Journal of Speech, 41 (1955), 397-402.

The author indicates that "95 per cent of the persons applying to the law schools in a survey believed that training in group discussion would be helpful, but none of these schools offers or plans to offer a systematic study in it." (397) Although the article is more than 30 years old, there has been very little significant change, as is borne out by more recent critiques and articles. The highlight of this article is a list of 10 competency skills which can be realized through courses using communication development exercises as mock trials. Consideration could be given to these in developing evaluation schemes. These include research, fact marshalling, critical analysis and reasoning.

(Reference-University-Law-Good)

Williams, Gerald R. "Using Simulation Exercises for Negotiation and Other Dispute Resolution Courses." Journal of Legal Education, 11 (1959), 307-314.

Williams feels that law schools should emphasize the negotiation process because most legal activities do not centre around the courtroom. He stresses that in order for a simulation activity in a law school to be successful, it must follow a three-step process: explicit definition of instructional objectives, determining which of these are addressable by the simulation, and finding or creating exercises that respond to these specific educational objectives.

(Reference-Senior High/University-Law-Fair)

Woywitka, Nicola, "On Trial: Ms. Pattern Drill." Canadian Modern Language Review, 30 (1973), 1 (October), 54-59.

This very imaginative article uses a mock trial approach to show that "pattern drills" have a place in linguistic studies in Canadian schools. The article centres around the use of pattern drill in French language instruction. It provides the reader with a step-by-step guide to the trial in the form of mock trial transcript and offers a refreshing new approach to justifying what is, to some linguists, a controversial topic.

(Activity/Reference-All School Levels-Languages-Fair)

ANNOTATED BIBLIOGRAPHY

Conference Papers

Carnew, Fred; Szakacs, Monty; and Wong, Jason. "Integrating Law into Various School Curriculae." Saskatoon: Workshop summary from "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

This workshop summary describes how law can be taught throughout the curriculum, especially in social studies, civic education and science. It summarizes curriculum research and development in law education within the province of Manitoba. It also describes the conclusions of a study of law instruction in Ontario. The workshop suggested that teachers use caution in law instruction in areas such as course overloading, age-bias work for learning, philosophical objectives, teacher support and amounts of work covered.

(Reference-All Schools-Social Studies-Fair)

Carroll, James L. and others. "Law-Related Education: Assessing Adolescents' Knowledge and Attitudes." Boston: Paper presented at the annual meeting of the American Educational Research Association, April 7-11, 1980.

This conference paper discusses a 1979 research study involving 457 students in grades 9-12 near Phoenix, Arizona. The findings showed that the more knowledge a student has about the legal system, the more positive a social attitude he or she possesses. It suggests that students' disdain for authoritarian agencies such as police departments and government come from a basic lack of knowledge about these institutions. The author shows that as the student ages and gathers more insight into these agencies, the student positively changes his or her attitude in relation to the increase of his or her familiarity with these agencies. **(ED 193 333)**

(Research-Junior/Senior High-Social Studies-Fair)

Cassidy, Wanda. "Legal Education Inside Schools." Saskatoon: Plenary Panel Address presented to "The National Conference on Legal Education and Youth", May, 1980.

Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

Cassidy summarized the many problems and eventual solutions that confronted legal education in British Columbia schools prior to the creation of the "Schools Program" in 1975. The paper clearly illustrates how, with support of the provincial law foundation, problems such as resource shortages, classroom innovations and teacher/lawyer communication can be overcome by a concerted effort within a few years.

(Reference-All Schools-Law-Weak)

Craig, Rick. "Court-watching and Simulation Games." Saskatoon: Workshop Summary from the "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

Most of this workshop summary serves as an overview of the importance of court-watching and simulation games (mock trial) in the teaching of law in Canadian schools. Craig stresses the value of mock trial and suggests three ways "theatre games" can be used as classroom activities. Although the paper has some good tips, there is no support material.

(Reference-Junior/Senior High-Law-Weak)

Crouse, Janice Shaw and Thorpe, Judie Mosier. "Communications and Ethics: The Contributions of Legal Advocacy Activities in Academe--The Extra-Curricular Perspective: The Moot Court." Louisville, Kentucky: Paper presented at the Speech Communication Association Sixty-Eighth Annual Meeting, November 7, 1982.

This paper is very similar to the Thorpe and Crouse paper reviewed below. The authors deal with the issue of moot court in a more philosophical sense, in that they address ethics, values, communication ethics, use of persuasion and argument, etc. They stress the use of realism in order to make sure that the experience is worthwhile. This paper contains copies of moot court scenarios as well as information on the organization of a moot court. (ED 224 076)

(Activity/Procedure-Senior High/University-Law-Excellent)

Dykstra, Gail. "The Diversity of Public Legal Education." Saskatoon: Plenary Panel Address presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

Dykstra summarizes both the role and diversity of Public Legal Education in Canada. She stresses that PLE should be seen not as a competitor in the legal education process but as an umbrella that covers anyone and everyone, providing or producing information on the law.

(Reference-All Schools-Law-Weak)

Frass, John W. and Rafeld, Frederick J. "Simulation Activities and Student Learning: Characteristics in a College Economics Survey Course." Norfolk, Virginia: Paper presented at the annual meeting of the Eastern Educational Research Association, March 5-8, 1980.

This paper reports on a research study conducted at Ashland College which involved 120 students being randomly assigned to several sections. The report proved "that neither the simulation-gaming method of instruction nor the lecture-discussion method of instruction was a superior method for teaching an economics survey course." (6) The author determined, however, that those students who are receptive to auditory stimuli, possess greater sensibility to their peers and have a high degree of self-motivation excel in simulation games, while those who tend to obtain a higher degree of meaning from written words, numerals and mathematical symbols excel in the lecture-discussion method. (ED180 905)

(Research-Senior High/University-Social Studies-Good)

Fruman, Sheila and Robertson, Pat. "Legal Services Society of B.C.-Schools Program." Saskatoon: Plenary Panel Address presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

The bulk of this paper deals with the British Columbian experience in legal education. It provides a step-by-step guide for the production of legal curriculum materials. It also discusses methodology and the importance of teachers being directly involved in the production of new curriculum materials. There is a brief section discussing this role in the formulation, development and evaluation resources slated to be used in the Canadian classroom.

(Procedure-All School Grades-Law-Good)

Hannay, Lynne M. "Is Law a Value and/or Citizenship Education?" Saskatoon: Workshop paper presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

The author stresses that law instruction helps develop in students the decision-making process so crucial in our democratic society. In addition, she feels that teachers should encourage more questioning from their students as well as communication interaction within the classroom. In turn, she believes students should be encouraged towards more participation in the decision-making process both within their classrooms and their school in general.

(Reference-Junior/Senior High-Law-Fair)

Kindred, Hugh M. "Legal Education for Teachers: Some Objectives." Saskatoon: Remarks for an Address presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

Professor Kindred's address primarily deals with legal education for teachers. He sees "law as a process for resolving individual problems" and thus feels that teachers should be concentrating on the legal processes, rather than viewing law as an "arbitrary assortment of rigid rules by which the public is beaten into submission." He sees a great necessity for educators to be familiar with substantive law (an outline of the legal system, the fundamental principles of law and the basic procedures for adjudication) as well as with "law as a process" (basic legal research skills exposing the educator to legal sources such as parliamentary acts, government regulations and court decisions).

(Reference-All School Levels-Law-Good)

McIntyre, Mr. Justice W.R. "The Rule of Law in Public Legal Education." Saskatoon: Keynote address presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

Judge McIntyre provides an excellent overview of the importance of law in the Canadian curriculum. He stresses that the knowledge of law and its subsequent procedures are key to the maintenance of a democratic society. He is cautious not to provide a clear-cut methodology of legal instruction. Instead he gives suggestions and "food for thought."

(Reference-All Levels-Law-Weak)

Meyers, Edward R. "Legal Education for Canadian Youth." Saskatoon: Paper presented to "The National Conference on Legal Education and Youth", May, 1980. Ottawa: The Canadian Law Information Council, Occasional Paper Number One, 1980.

This paper served as the introduction to a published summary of this conference, sponsored by the Canadian Law Information Council. The paper identifies the "needs" of Canadian legal educators but does not indicate how these may be fulfilled, short of networking.

(Reference-All Levels-Law-Weak)

Naylor, David T. "Enhancing Global Understanding: A Call for Cooperation." Houston, Texas: Paper presented at the Annual Meeting of the National Council for the Social Studies, November 22-25, 1978. Cincinnati University, Cincinnati, Ohio, 1978.

The author calls for the development a link between global education and legal education. He stresses the similarities of both, in areas such as reflective inquiry, common goals, approaches in teaching as well as similar skills development approaches in areas such as decision-making, judgements and exercising influence. (ED 175 757)

(Reference-Junior/Senior High-Social Studies-Weak)

Runion, Keith B. "Encouragement: A Process for All Seasons." Washington D.C.: Paper presented to the Annual Convention of the American Personnel and Guidance Association, March 20-23, 1983.

The author describes why encouragement is necessary in the successful educational process and why teachers must design activities stimulating both students' verbal and non-verbal communication responses. The paper is applicable to mock-trial and other simulation activities in that students must be assigned to "encouraging" roles, thus permitting them to develop skills within a safe environment. The paper could provide some excellent "do's" and "do not's" for classroom teachers using simulation games.

(ED 261 320)

(Reference-All Levels-All Courses-Fair)

Thorpe, Judie Mosier and Crouse, Janice Shaw. "Advocacy in the Courtroom: The Moot Court." Milwaukee, Wisconsin: Paper presented at the Central States Speech Association, April 17, 1982.

This 32-page paper, based on the moot court program at Ball State University, describes program benefits; how communication skills are developed through this methodology; a step-by-step description of the program; and suggestions for improvement. An excellent bibliography is provided, as is a list of resources, exercises and materials. (ED 217 495)

(Activity/Procedure-Senior High/University-Law-Excellent)

Turner, Mary Jane. "Education in Law and Government: How to be a Hit with Students." Boulder: Paper delivered to the Social Studies Education Consortium, Inc. Boulder: Colorado State Bar, 1981.

This paper discusses a wide range of instructional methods to be used at all grade levels by teachers. Although some of these are sketchy and, in many cases, lack detail, leaving a great deal to the creativity and imagination of the teacher, Turner does address topics such as brainstorming, rank ordering, role-play, hypotheticals and policy or rulemaking. (ED 232 904)
(Reference/Activity-All School Levels-Social Studies-Weak)

ANNOTATED BIBLIOGRAPHY

Theses & Dissertations

Festa, Dominick A. "Utilization of Selected Simulation Games to Foster Improved Attitudes Among 11th Grade Students Engaged in the Study of Social Studies." Unpublished Ph. D. dissertation: Weldon University, March 1976.

This thesis reports the findings of a research study involving 100 grade 11 students over a period of 20 weeks. The author found that "simulation games did enhance student interest and did produce more positive attitudes towards social studies." (4) The author found noticeable improvement in student interest and motivation. (ED 124 472)

(Reference/Research-Senior High-Social Science-Fair)

Rentz, Daniel K. "Conventional Instruction and Simulation Teaching: A Comparative Study." Unpublished M.A. thesis: California State College, San Bernardino, 1978.

This thesis reports the findings of a 1978 experiment comparing the effects of simulation instruction on 110 grade 11 students. The literature search reviews the findings of several earlier studies in areas of motivation, retention, attitude change and cognitive learning. In conclusion, it can be stated that simulation game instruction in this instance did not produce significantly different cognitive learning, affective learning, motivation to do extra credit assignments, or attendance than did conventional instruction. ... Perhaps the greatest value in simulation lies in its ability to interest some students in learning. If student interest in learning can be enhanced, and if learning can be an enjoyable experience through the use of simulation games, then today's educators should give more serious thought to this mode of instruction." (20)

(Reference-Senior High/University-All Courses-Good)

Stadsklev, Ronald. "A Comparative Study of Simulation Gaming and Lecture Discussion Method." Unpublished M.Sc. thesis: Northern State College: January, 1970.

This thesis provides educators with a comparison study of simulation instruction versus traditional lecture-discussion method in a high school

social studies classroom. Stadslev found "no statistical evidence to support the hypothesis that simulation games enhance the ability of the student to acquire more factual or conceptual knowledge, but the study did indicate that games can influence students' attitudes and values in a given direction." (abstract) The author addresses several positive and negative aspects of simulation gaming. Given the research and conclusions, educators can see, through this thesis, that role-play in the form of mock trial etc. has no negative effect but could have very positive effects in the high school classroom. (ED 065 405)

(Research-Senior High-All Courses-Good)