

## AP Gov Final: Litigants Oral Argument Scale and Samples

Oral arguments in front of the justices of the Supreme Court serve as the final evidence to inform the opinion of the Court's ruling on a constitutional matter. A team of two will represent the arguments of the Petitioner (*United States*) and another team of two will represent the arguments of the Respondent (*Texas, et. al*).

In oral arguments, time is limited. Arguers are each afforded 10 minutes to present their opening argument, and must be prepared to respond to questions prompted by justices. Arguers are given an additional 5 minutes in a second round of presentations, so each team should be prepared to present for up to a total 15 minutes of arguments to each team.

Level 2 Near Proficiency	Level 3 Proficient	Level 4 Exceeds Proficiency
Identify the constitutional issues present in the court case in question	Apply the Constitution and Bill of Rights to create and defend a legal argument that answers the questions of the Court.	Create and defend a legal argument using the Bill of Rights, the Constitution, and Judicial precedent to answer the questions of the court.

A good oral argument uses evidence from the Constitution, stare decisis, and amicus briefs to address **all** the questions of the court in a **clearly organized, efficient manner** that leaves little doubt as to the conclusion of the dispute.

### Your oral argument must meet the following requirements:

- Address **ALL** Questions of the Court
- Cite and Apply **AT LEAST TWO** prior court cases as precedent
- Cite and Apply **AT LEAST TWO** pieces of evidence from the U.S. Constitution
- Be prepared to answer impromptu questions from the justices

**\*\*Teams need to also submit their notes or a draft of their argument for proof of original work.\*\***

### Sample Quotes from Oral Arguments: *Youngstown Tube & Tube Co. v. Sawyer* (1952)

The President's power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself [*States v. Curtiss-Wright Corp*]. There is no statute that expressly authorizes the President to take possession of property as he did here. Nor is there any act of Congress to which our attention has been directed from which such a power can fairly be implied. Indeed, we do not understand the Government to rely on statutory authorization for this seizure. There are two statutes which do authorize the President [343 U.S. 579, 586] to take both personal and real property under certain conditions. [2](#) However, the Government admits that these conditions were not met and that the President's order was not rooted in either of the statutes. The Government refers to the seizure provisions of one of these statutes ( 201 (b) of the Defense Production Act) as "much too cumbersome, involved, and time-consuming for the crisis which was at hand."

Moreover, the use of the seizure technique to solve labor disputes in order to prevent work stoppages was not only unauthorized by any congressional enactment; prior to this controversy, Congress had refused to adopt that method of settling labor disputes. When the Taft-Hartley Act was under consideration in 1947, Congress rejected an amendment which would have authorized such governmental seizures in cases of emergency.

3. Apparently it was thought that the technique of seizure, like that of compulsory arbitration, would interfere with the process of collective bargaining. 4 Consequently, the plan Congress adopted in that Act did not provide for seizure under any circumstances. Instead, the plan sought to bring about settlements by use of the customary devices of mediation, conciliation, investigation by boards of inquiry, and public reports. In some instances temporary injunctions were authorized to provide cooling-off periods. All this failing, unions were left free to strike after a secret vote by employees as to whether they wished to accept their employers' final settlement offer. 5 [343 U.S. 579, 587]

It is clear that if the President had authority to issue the order he did, it must be found in some provision of the Constitution. And it is not claimed that express constitutional language grants this power to the President. The contention is that presidential power should be implied from the aggregate of his powers under the Constitution. Particular reliance is placed on provisions in Article II which say that "The executive Power shall be vested in a President . . ."; that "he shall take Care that the Laws be faithfully executed"; and that he "shall be Commander in Chief of the Army and Navy of the United States."

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