

# INTRODUCTION TO THE RULE OF LAW

LESSON PLAN

**NATIONAL CONSTITUTION CENTER**



Independence Mall • 525 Arch Street • Philadelphia, PA 19106

## INTRODUCTION TO THE RULE OF LAW LESSON PLAN

**Grade Levels:** 9th - 12th

**Number of class periods:** 2 (approximately 50-60 minutes each)

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### INTRODUCTION/LESSON OVERVIEW

The Rule of Law is an important concept in understanding the Constitution; however, it is difficult for many people to define. Documents from the era of the drafting and ratification of the Constitution have been debated throughout history, as scholars and leaders have grappled over the proper relationship between the government and the governed. Moreover, the Rule of Law was established in the U.S. Constitution and enforced in the judicial system of the United States through judicial review. The first day of this lesson uses historical quotations to help students develop understandings of conceptions of the Rule of Law. In the second day of the lesson, through small group work and class-wide collaboration analyzing Supreme Court cases, students will reflect on how their understandings of Rule of Law relate to the Constitution, the judicial system, and their daily lives.

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### 9TH-12TH COMMON CORE STANDARDS:

**CCSS.ELA-LITERACY.RH 9-12.1**

Cite specific textual evidence to support analysis of primary and secondary sources, attending to such features as the date and origin of the information.

**CCSS.ELA-LITERACY.RH 9-10.2**

Determine the central ideas or information of a primary or secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.

**CCSS.ELA-LITERACY.RH 9-10.4**

Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.

**CCSS.ELA-LITERACY.RH 9-10.6**

Compare the point of view of two or more authors for how they treat the same or similar topics, including which details they include and emphasize in their respective accounts.



**CCSS.ELA-LITERACY.RH 9-10.9**

Compare and contrast treatments of the same topic in several primary and secondary sources

**CCSS.ELA-LITERACY.WHST 9-12.2**

Write informative/explanatory texts, including the narration of historical events, scientific procedures/ experiments, or technical processes.

**CCSS.ELA-LITERACY.WHST 9-10.2A**

Introduce a topic and organize ideas, concepts, and information to make important connections and distinctions; include formatting (e.g., headings), graphics (e.g., figures, tables), and multimedia when useful to aiding comprehension.

**CCSS.ELA-LITERACY.WHST 9-10.2B**

Develop the topic with well-chosen, relevant, and sufficient facts, extended definitions, concrete details, quotations, or other information and examples appropriate to the audience's knowledge of the topic.

**CCSS.ELA-LITERACY.WHST 9-10.2C**

Use varied transitions and sentence structures to link the major sections of the text, create cohesion, and clarify the relationships among ideas and concepts.

**CCSS.ELA-LITERACY.WHST 9-10.2D**

Use precise language and domain-specific vocabulary to manage the complexity of the topic and convey a style appropriate to the discipline and context as well as to the expertise of likely readers.

**CCSS.ELA-LITERACY.WHST 9-10.2E**

Establish and maintain a formal style and objective tone while attending to the norms and conventions of the discipline in which they are writing.

**CCSS.ELA-LITERACY.WHST 9-10.2F**

Provide a concluding statement or section that follows from and supports the information or explanation presented (e.g., articulating implications or the significance of the topic).

**CCSS.ELA-LITERACY.WHST 9-12.9**

Draw evidence from informational texts to support analysis, reflection, and research.



**ESSENTIAL QUESTIONS**

- ★ What is the Rule of Law?
  - ★ Why does the Rule of Law matter in the U.S. constitutional system?
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**CLARIFYING QUESTIONS:**

- ★ Is Rule of Law a set of universal principles in accordance with nature (natural law and natural rights)?
  - ★ Is Rule of Law a collection of rules, commands, or norms created by society?
  - ★ Does the Rule of Law have a specific purpose (protection of individual rights, attainment of justice, balancing liberty and security, limiting the role of government, promoting equality, etc.)?
  - ★ Is the definition of Rule of Law dependent on time period or social or political context?
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**OBJECTIVES:**

- ★ Students will develop an awareness of the origins of the Rule of Law, the impact it has in the U.S. constitutional system, and the role it plays in the judiciary.
  - ★ Students will participate in a discussion to define the Rule of Law and consider its modern implications.
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**MATERIALS**

- ★ Rule of Law trading cards (attached)  
*Teacher directions: print one-sided (on cardstock, if possible). There are 21 cards. For larger classes, print two sets of cards.*
- ★ Markers
- ★ Large paper
- ★ Gallery Walk graphic organizer (attached)
- ★ Supreme Court Case Studies handout (attached)
- ★ Supreme Court Case Studies Graphic Organizer (attached)

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## PROCEDURE: DAY ONE

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### WARM-UP ACTIVITY

Teacher displays the following quotations on the board:

- ★ “No Freeman shall be taken or imprisoned...or exiled or in any way destroyed... except by the lawful judgement of his peers or by the law of the land.” Magna Carta (1215)
- ★ “If men were angels, no government would be necessary. In framing a government which is to be administered by men or over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.” James Madison, the Federalist Papers, No. 51 (1788)

Students will independently respond in writing to the following prompts:

- ★ Write the main idea of each quotation in a way that a younger student might understand them.
- ★ What are some common ideas shared by both quotations?

Students should compare the meanings and ideas of each quotation with a classmate.

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### PREPARING FOR THE SMALL GROUP ACTIVITY - *WHAT DOES THE RULE OF LAW MEAN?*

Teachers should introduce the term “Rule of Law” by explaining that it is the relationship between the law and the people. However, there is no clear, agreed upon definition. In order to come to a consensus on what the Rule of Law means and how it connects to the US constitutional system, it is necessary to look at examples from history.

From the American Bar Association:

The Rule of Law is a term that is often used but difficult to define. A frequently heard saying is that the rule of law means the government of law, not men. But what is meant by “a government of law, not men”? Aren’t laws made by men and women in their roles as legislators? Don’t men and women enforce the law as police officers or interpret the law as judges? And don’t all of us choose to follow, or not to follow, the law as we go about our daily lives? How does the rule of law exist independently from the people who make it, interpret it, and live it? The easiest answer to these questions is that the Rule of Law cannot ever be entirely separate from the people who make up our government and our society. The rule of law is more of an ideal that we strive to achieve, but sometimes fail to live up to. The idea of the rule of law has been around for a long time. Many societies, including our own, have developed institutions and procedures to try to make the rule of law a reality. These institutions and procedures have contributed to the definition of what makes up the Rule of Law and what is necessary to achieve it.

[https://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part1DialogueROL\\_authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/migrated/publiced/features/Part1DialogueROL_authcheckdam.pdf)

### SMALL GROUP ACTIVITY

The teacher will hand out one Rule of Law trading card per student. Students will work in small groups to analyze the quotations on their trading cards and answer the following questions:

- ★ What are some essential components of Rule of Law shared by all of the group's quotations?
- ★ What are some important aspects of the Rule of Law that you do not see reflected in your quotations?

After students have had time to answer the questions, teachers should collect the trading cards and redistribute them to ensure each group gets new cards. Students will then answer the above questions about their new quotations.

Students will develop a group definition of Rule of Law by discussing common themes shared in their quotations. Group definitions should be written on large paper for a gallery walk. Groups will display their definitions of Rule of Law on the walls around the classroom.

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### WHOLE CLASS ACTIVITY

Students will participate in a gallery walk, analyzing every groups' definition of Rule of Law. Throughout the gallery walk, students should take note of three words or phrases that are repeated and two "big ideas" in order to create one summary sentence in their individual gallery walk graphic organizers.

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### EXIT TICKET

Display the American Bar Association's definition of the Rule of Law.

The World Justice Project has proposed a working definition of the Rule of Law that comprises four principles:

1. A system of self-government in which all persons, including the government, are accountable under the law.
2. A system based on fair, publicized, broadly understood and stable laws.
3. A fair, robust, and accessible legal process in which rights and responsibilities based in law are evenly enforced.
4. Diverse, competent, and independent lawyers and judges.

Students will use the ABA definition and their own definitions to answer the following questions before leaving class:

- ★ Compare the World Justice Project's definition of the Rule of Law to the group definitions. What similarities and differences do you see?
- ★ Are there elements of the World Justice Project definition that you would add to your own definition of the Rule of Law? Why or why not?

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## PROCEDURE: DAY TWO

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### WARM-UP ACTIVITY

Teacher displays the following quotation on the board:

- ★ “It is emphatically the province and duty of the Judicial Department to say what the law is... If two laws conflict with each other, the Courts must decide on the operation of each. So, if a law be in opposition to the Constitution... the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.” Chief Justice Marshall, *Marbury v. Madison*, 1803.

Students should respond to the following prompts pertaining to the quotation from Marshall’s opinion in *Marbury v. Madison* and their definitions of Rule of Law from the previous day:

- ★ Summarize the quotation by Chief Justice Marshall.
- ★ How do Marshall’s words relate to definitions from yesterday?
- ★ What might the courts have to do with the Rule of Law?

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### PREPARING FOR THE SMALL GROUP ACTIVITY - RULE OF LAW IN ACTION

Teachers should explain how Article III of the U.S. Constitution describes the powers and duties of the judicial branch. Nowhere does it explicitly state the power of the courts to review actions of the other two branches and, possibly, declare those actions unconstitutional. However, it is generally understood that most of the Framers assumed that the U.S. constitutional system would have some sort of Judicial Review. The question throughout history has been when and how to use this power. Judicial Review became precedent with the landmark decision in *Marbury v. Madison*, 1803.

Key Concepts for Understanding Judicial Review

- ★ No law or actions can contradict the U.S. Constitution, which is the supreme law of the land.
- ★ The court can only review a law that is brought before it through a lawsuit.
- ★ The Supreme Court and other federal courts can only review laws where the U.S. government or U.S. Constitution is involved.

## GROUP ACTIVITY

Students should be divided into six groups. Each group will receive one of three Supreme Court cases represented by the Case Studies handout, with each case assigned to two groups. Students should complete the Case Studies graphic organizer in their groups by explaining the question the Court faced in each case, the decision the Court made, and how their case connects to the Rule of Law.

One student from each group will share the information in their graphic organizer with another group, highlighting the key points of their assigned case, in a Jigsaw activity. This rotation will happen one additional time in order for all students to get the pertinent information about all three Supreme Court cases.

After students have information about all three cases, each individual student will write a definition of Rule of Law that utilizes ideas from the quotations from both days of instruction, the gallery walk, and the Supreme Court cases.

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## CLASS ACTIVITY

Students will participate in a class-wide discussion about their definition of Rule of Law, what historical concepts they used to create it, and why they omitted certain elements from the final draft. Discussion questions should include:

- ★ Does the Rule of Law consist of a set of universal principles in accordance with nature (natural law and natural rights)?
- ★ Is the Rule of Law a collection of rules, commands, or norms created by society?
- ★ Does the Rule of Law have a specific purpose, such as the protection of individual rights, the attainment of justice, balancing liberty and security, limiting the role of government, or promoting equality?
- ★ Is the definition of Rule of Law dependent on time period or social or political context?

For additional resources on civil dialogue strategies, visit the [How to Have a Civil Dialogue](https://constitutioncenter.org/learn/constitutional-exchanges/think-like-a-constitutional-scholar) (<https://constitutioncenter.org/learn/constitutional-exchanges/think-like-a-constitutional-scholar>) page on the National Constitution Center's website. Or, download the [Civil Dialogue Toolkit Lesson plan](https://constitutioncenter.org/media/files/Civil_Dialogue_Toolkit.pdf) ([https://constitutioncenter.org/media/files/Civil\\_Dialogue\\_Toolkit.pdf](https://constitutioncenter.org/media/files/Civil_Dialogue_Toolkit.pdf)).

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## EXIT TICKET

Students should reflect on the Rule of Law with written responses to the following questions:

- ★ What is the Rule of Law?
- ★ Why does the Rule of Law matter?
- ★ How does your understanding of the Rule of Law relate to ideas expressed by your classmates?



“...governments, which have a regard to the common interest, are constituted in accordance with strict principles of justice, and are therefore true forms; but those that regard only the interest of the rulers are all defective and perverted forms, for they are despotic, whereas a state is a community of freemen.”

-Aristotle, *The Politics* (4th Century, BCE)

“Where the law is subject to some other authority and has none of its own, the collapse of the state ... is not far off; but if law is the master of the government and the government is its slave, then the situation is full of promise ....”

-Plato, *The Laws* (4th Century BCE)

“Therefore law means drawing a distinction between just and unjust, formulated in accordance with that most ancient and most important of all things - nature.”

-Cicero, *The Laws, Book 2* (1st Century BCE)

“...whatever law a man makes for another, he should keep for himself.”

-Thomas Aquinas, *Treatise on Law from Summa Theologia* (13th Century)

“Whensoever a man transferreth his right, or renounceth it; it is either in consideration of some right reciprocally transferred to himself; or for some other good he hopeth for thereby. For it is a voluntary act: and of the voluntary acts of every man, the object is some good to himself...“The mutual transferring of right is that which men call CONTRACT.”

-Thomas Hobbes, *Leviathan* (1651)

“Men being...by nature all free, equal, and independent, no one can be put out of this condition and subjected to the political power of another without his own consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one among another, in a secure enjoyment of their properties and a greater security against any that are not in it. ...When any number of men have so consented to make one community of government, they are thereby incorporated and make one body politic wherein the majority have a right to act and govern the rest.”

-John Locke, *The Second Treatise of Civil Government* (1681)

“Where-ever law ends, tyranny begins, if the law be transgressed to another’s harm; and whosoever in authority exceeds the power given him by the law, and makes use of the force he has under his command, to compass that upon the subject, which the law allows not, ceases in that to be a magistrate; and, acting without authority, may be opposed, as any other man, who by force invades the right of another.”

-John Locke,  
*Two Treatises of Government, Book II (1689)*

“Of great importance to the public is the preservation of this personal liberty; for if once it were left in the power of any the highest magistrate to imprison arbitrarily whomever he or his officers thought proper, ... there would soon be an end of all other rights and immunities. ... To bereave a man of life, or by violence to confiscate his estate, without accusation or trial, would be so gross and notorious an act of despotism, as must at once convey the alarm of tyranny throughout the whole kingdom; but confinement of the person, by secretly hurrying him to jail, where his sufferings are unknown or forgotten, is a less public, a less striking, and therefore a more dangerous engine of arbitrary government.”

-Sir William Blackstone, *Commentaries on the Laws of England (1753)*

“Man is born free; and everywhere he is in chains.”

-Jean Jacques Rousseau,  
*The Social Contract (1762)*

“The problem is to find a form of association which will defend and protect with the whole common force the person and goods of each associate [citizen], and in which each, while uniting himself with all, may still obey himself alone, and remain as free as before.’ This is the fundamental problem of which the Social Contract provides the solution.”

-Jean Jacques Rousseau,  
*The Social Contract (1762)*

“It is manifest...that the jury must judge of and try the whole case...free of any dictation or authority on the part of the government. They must judge of the existence of the law; of the true exposition of the law; of the justice of the law; and of the admissibility and weight of all the evidence offered; otherwise the government will have everything its own way; the jury will be mere puppets in the hands of the government; and the trial will be, in reality, a trial by the government, and not a ‘trial by the country.’ By such trials the government will determine its own powers over the people, instead of the people’s determining their own liberties against the government; and it will be an entire delusion to talk, as for centuries we have done, of the trial by jury, as a ‘palladium of liberty,’ or as any protection to the people against the oppression and tyranny of the government.”

-Lysander Spooner, *Trial by Jury (1852)*

“...whatever crushes individuality is despotism, by whatever name it may be called....”

-John Stuart Mill, *On Liberty (1859)*

“No man is above the law and no man is below it; nor do we ask any man’s permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor.”

*-Theodore Roosevelt,  
“State of the Union Address,” December 7, 1903*

“The good citizen will demand liberty for himself, and as a matter of pride he will see to it that others receive liberty which he thus claims as his own. Probably the best test of true love of liberty in any country is the way in which minorities are treated in that country. Not only should there be complete liberty in matters of religion and opinion, but complete liberty for each man to lead his life as he desires, provided only that in so he does not wrong his neighbor.”

*-Theodore Roosevelt,  
“The Man in the Arena” Speech, April 23, 1910*

“The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law.”

*-Dwight D. Eisenhower, 1958*

“The law is not a ‘light’ for you or any man to see by; the law is not an instrument of any kind. The law is a causeway upon which, so long as he keeps to it, a citizen may walk safely.”

*-Robert Bolt, A Man for All Seasons (1960)*

“Those who believe that humans are born with inalienable rights to life, liberty, equality, and happiness do not understand human nature or nature: All life is a competition with winners and losers; liberty is, at best, limited by what others do, say and think; no two things in nature are equal; and happiness is unattainable because humans always want what they don’t have or can’t get.”

*-Anonymous*

“The rule of law starts at home. But in too many places it remains elusive. Hatred, corruption, violence and exclusion go without redress. The vulnerable lack effective recourse, while the powerful manipulate laws to retain power and accumulate wealth.”

*-Kofi Annan in an address to the  
United Nations General Assembly on  
September 21, 2004*

“I am convinced that the majority of American people do understand that we have a moral responsibility to foster the concepts of opportunity, free enterprise, the rule of law, and democracy. They understand that these values are the hope of the world.”

*-Richard Lugar, June 15, 2009*

“Uphold the Rule of Law: The rule of law-- and our capacity to enforce it--advances our national security and strengthens our leadership. At home, fidelity to our laws and support for our law enforcement community safeguards American citizens and interests, while protecting and advancing our values. Around the globe, it allows us to hold actors accountable, while supporting both international security and the stability of the global economy. America’s commitment to the rule of law is fundamental to our efforts to build an international order that is capable of confronting the emerging challenges of the 21st century.”

*-President Barack Obama, 2010*

“... rule of law strengthens the trust of citizens in state institutions and its decisions. And thereby also strengthens the social stability of a country.”

*-Angela Merkel (From a speech at the University of Chinese Academy of Sciences, Beijing, China, June 12, 2016)*

NAME: \_\_\_\_\_

## GALLERY WALK GRAPHIC ORGANIZER

### THREE REPEATED WORDS OR PHRASES:

1.

2.

3.

### TWO BIG IDEAS:

1.

2.

### ONE SUMMARY SENTENCE:



## SUPREME COURT CASE STUDIES

### MARBURY V. MADISON

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#### FACTS

- ★ When President John Adams did not win a second term in the 1801 election, he used the final days of his presidency to make a large number of political appointments. When the new president (Thomas Jefferson) took office, he told his Secretary of State (James Madison), not to deliver the official paperwork to the government officials who had been appointed by Adams. Thus the government officials, including William Marbury, were denied their new jobs. William Marbury petitioned the U.S. Supreme Court for a writ of mandamus, to force Madison to deliver the commission.
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#### ISSUE

- ★ Section 13 of the Judiciary Act of 1789 (a law written by Congress), gave the Supreme Court the authority to issue writs of mandamus to settle disputes such as the one described here. This power to force actions of government officials went above and beyond anything mentioned in Article III of the Constitution. Therefore, in addition to deciding whether or not William Marbury had a right to his job, the U.S. Supreme Court also had to decide whether or not Section 13 of the Judiciary Act was in violation of the Constitution (the birth of **Judicial Review**).
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#### DECISION

- ★ Though the Justices agreed that William Marbury had a right to his job, they also ruled that issuing the writ of mandamus to force that to happen did not fall under their jurisdiction as stated in the Constitution. The Supreme Court opinion explained that it is within their power and authority to review acts of Congress, such as the Judiciary Act of 1789, to determine whether or not the law is unconstitutional. By declaring Section 13 of the Judiciary Act of 1789 unconstitutional, the U.S. Supreme Court established the doctrine of Judicial Review.
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#### QUOTATION

- ★ The Supreme Court said:  
*“The Constitution is either a superior, paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it. If the (first) part of the alternative be true, then a legislative act contrary to the Constitution is not law.”* by author of opinion, Chief Justice John Marshall.

## SUPREME COURT CASE STUDIES

### LADUE V. GILLES, 1994

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#### FACTS

- ★ In 1990, Margaret Gilles placed a sign in the yard of her home in Ladue, Missouri. The sign said “Say No to War in the Persian Gulf, Call Congress Now.” The city of Ladue had a law against yard signs, and told Ms. Gilles to take her signs down. Ms. Gilles sued the city of Ladue for violating her 1st Amendment rights.
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#### ISSUE

- ★ Was Ladue’s law against signs unconstitutional?
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#### DECISION

- ★ The U.S. Supreme Court affirmed the decision of the lower courts. Ladue’s law against yard signs violated the 1st Amendment of the U.S. Constitution. The 1st Amendment protects political speech, and banning yard signs takes away the main avenue by which people traditionally express their personal political views. The value of protecting personal political speech is more important than Ladue’s desire to keep the city free of clutter.
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#### QUOTATION

- ★ The Supreme Court said:  
*“They may not afford the same opportunities for conveying complex ideas as do other media, but residential signs have long been an important and distinct medium of expression.”*  
by author of opinion, Justice John Paul Stevens.



## SUPREME COURT CASE STUDIES

### HARPER V. VIRGINIA BOARD OF ELECTIONS, 1966

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#### FACTS

- ★ Annie Harper was not allowed to register to vote in Virginia because she wasn't able to pay the state's poll tax. Virginia law required voters to pay \$1.50 tax to register, with the money collected going to public school funding. Ms. Harper sued the Virginia Board of Elections, claiming the poll tax violated her 14th Amendment right to equal protection. Note: The 24th Amendment to the Constitution already banned poll taxes in federal elections, but not in state elections.
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#### ISSUE

- ★ Was the Virginia law requiring a tax to vote in a state election unconstitutional?
- 

#### DECISION

- ★ The Supreme Court declared the Virginia poll tax law unconstitutional. By making it more difficult for poor people to vote, the state was violating the 14th Amendment guarantee of equal protection. Voting is a fundamental right, and should remain accessible to all citizens. The amount of wealth someone has should have no bearing on their ability to vote freely.
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#### QUOTATION

- ★ The Supreme Court said:  
*"We conclude that a State violates the ...(Constitution).. ...whenever it makes the affluence of the voter or payment of any fee an electoral standard. Voter qualifications have no relation to wealth nor to paying or not paying this or any other tax....Wealth or fee paying has, in our view, no relation to voting qualifications; the right to vote is too precious, too fundamental to be so burdened or conditioned."* by author of opinion, Justice William O. Douglas





NAME:

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## CASE STUDIES GRAPHIC ORGANIZER

### SUPREME COURT CASE:

CASE:

YEAR:

### ISSUE:

### COURT'S DECISION:

### CONNECTION TO THE RULE OF LAW:

