

APGOVPOL

Chapter 16: The Federal Courts

Key Words and Terms, Defined

amicus curiae briefs: legal arguments that are delivered voluntarily to a court by a "third party" or "friend of the court" who is not part of the lawsuit to give testimony for or against a particular decision

appellate jurisdiction: the jurisdiction of courts that hear cases brought to them on appeal from lower courts; these courts do not review the factual record, only the legal issues involved (compare original jurisdiction)

civil law: the body of law involving cases without a charge of criminality; it concerns disputes between two parties and consists of both statutes and common law (compare criminal law)

class action suits: a lawsuit brought by a person or group on behalf of all people who would benefit directly from the court's decision in a case

common law: the body of law that is based on custom, tradition, and past decisions of judges, rather than on specific laws and statutes passed by lawmakers; the accumulation of judicial decisions applied in civil law disputes

constitutional courts: lower federal courts of original jurisdiction created by Congress by the Judiciary Act of 1789 (compare legislative courts)

courts of appeal: appellate courts empowered to review all final cases of district courts, except in rare cases; in addition, they also hear appeals to orders of many federal regulatory agencies (compare district courts)

district courts: the 91 courts of original jurisdiction; these are the only federal courts in which trials are held and in which juries may be empanelled (compare courts of appeal)

judicial activism: a judicial philosophy in which judges make bold policy decisions, even charting new constitutional ground; advocates of this approach emphasize that the courts can correct pressing needs, especially those unmet by the majoritarian political process

judicial implementation: how and whether court decisions are translated into actual policy, affecting the behavior of others; the courts rely on other units of government to enforce their decisions

judicial restraint: a judicial philosophy in which judges play minimal policymaking roles, leaving that strictly to the legislatures (compare judicial activism)

judicial review: the power of the courts to declare national, state or local acts of government invalid

justiciable disputes: a constraint on the courts, requiring that a case must be capable of being settled by legal methods

legislative courts: courts established by Congress for specific purposes, such as the Court Military Appeals; judges who serve on these courts have fixed terms and lack the protections of constitutional court judges

litigants: the plaintiff and the defendant in a legal case

Marbury v. Madison: the first Supreme Court decision to declare an act of Congress unconstitutional, in 1803; this case established the Court's power of judicial review

opinion: a statement of legal reasoning behind a judicial decision; the content of an opinion may be as important as the decision itself

original intent: a view that the Constitution should be interpreted according to the original intent of the framers; many conservatives support this view

original jurisdiction: the jurisdiction of courts that hear a case first, usually in a trial; these are the courts that determine the facts about a case (compare appellate jurisdiction)

political questions: a doctrine developed by the federal courts and used as a means to avoid deciding some cases, principally those involving conflicts between the president and Congress

precedent: how similar cases have been decided in the past

senatorial courtesy: an unwritten tradition whereby nominations for state-level federal judicial posts are not confirmed if they are opposed by the senator from the state in which the nominee will serve; the tradition also applies to courts of appeal when there is opposition from the nominee's state senator, if the senator belongs to the president's party

solicitor general: a presidential appointee and the third-ranking officer in the Department of Justice; the solicitor general is in charge of the appellate court litigation of the federal government

standing to sue: the requirement that plaintiffs have a serious interest in a case, which depends on whether they have sustained or are likely to sustain a direct and substantial injury from a party or an action of government

stare decisis: a Latin phrase meaning "let the decision stand" – the vast majority of cases reaching appellate courts are settled on this principle

statutory construction: the judicial interpretation of an act of Congress; in some cases where statutory construction is an issue, Congress passes new legislation to clarify existing laws

Supreme Court: the pinnacle of the U.S. judicial system; the Court ensures uniformity in interpreting national laws, resolves conflicts among states, and maintains national supremacy in law; it has both original jurisdiction and appellate jurisdiction, but unlike other federal courts, it controls its own agenda

United States v. Nixon: the 1974 case in which the Supreme Court unanimously held that the doctrine of executive privilege was implicit in the Constitution but could not be extended to protect documents relevant to criminal prosecutions

writ of certiorari: a formal document issued from the Supreme Court to a lower federal or state court that calls up a case from the records; an order from the U.S. Supreme Court to a lower court to prepare and send records of a case for review