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Introduction to Anglo-American Constitutional Law – Public Law

BRIEFING CASES

What is a "case?"

In the context of the reading assignments for this course, a "case" refers to a judicial (or court) opinion.

What is a "brief?"

A brief is a summary of the main features of a case, including an analysis of the general principles of law involved. In essence, a brief constitutes a technique for figuring out what a case is about and preparing for discussion of the case in class. Briefs of cases covered during the semester also provide a basis for studying and reviewing these materials when it comes time to take an exam.

Typical format of a brief (questions a brief is meant to answer):

1) **Facts:** what were the circumstances which gave rise to the litigation? Who were the parties (plaintiff v. defendant; appellant v. appellee; petitioner v. respondent), what were their arguments, and what were the lower courts' holdings?

2) **Questions of law:** what legal (in our case, constitutional) questions were presented for the Court to resolve? Note that the Court may not limit itself to questions raised by the parties.

3) **Holding:** what did the Court decide? Did it decide on the questions raised by the parties? Was the decision unanimous? How many Justices agreed on which points? Note that anything less than a 5-Justice majority of the Supreme Court on an issue of law means the lower courts are not bound!

4) **Reasoning:** what was the rationale behind the Court's holding, ie how did the Court apply the law to the facts to reach its holding? What legal doctrines does the Court refer to and what methods of interpretation does it use to support its arguments? Note that the rationales of any concurring and dissenting opinions need to be similarly analyzed.

5) **Evaluation:** why is this case included in the Reader? Why is it included in the particular context in which it is found in the syllabus? What is important about the case? What is not decided by the opinion? Did the Court deal with the parties' legal and factual arguments convincingly (did it get the case "right")? What will the Court do in future cases involving the legal (constitutional) principles considered in this case?

Caveat:

There is no absolutely "right way" of briefing. The object is to achieve a practical result: you want to be able to answer questions concerning the various aspects of a case mentioned under the heading "typical format." Re-ordering the structure of your summary (some may want to begin with the questions presented, for example) may allow you to recall more effectively the legal principles with which the case is concerned, analyze how a dispute was resolved the way it was resolved and what this means for the future.