

**Article V Judicial Department**

By: Jim Costa [Email](#) 8/15/24

**Sect 1**

**Court of Chancery**

In England, prior to the introduction of the Judicature Acts of 1873 and 1875, there existed a separate Court of Chancery. Unlike the law Courts, which were based upon pre-defined causes of action, the Chancery Courts, presided over by Lord Chancellors on behalf of the Monarch, provided a more flexible and pragmatic approach to the resolution of disputes. Approaching each case on its own merits, the Court of Chancery provided remedies to deserving parties where the application of the strict letter of the law could not. As Ramjohn (1995) writes: "Individual Lord Chancellors did not consciously set out to develop a system of rules, but attempted in individual cases to achieve fairness and justice *ad hoc*."<sup>[1]</sup>

Source

**Federal Circuit Courts, history pre civil war period:** [Source](#) Federal circuit Courts.

**State Circuit Courts, History:** [Wikipedia](#)

**Circuit courts** are court systems in several [common law](#) jurisdictions.

<sup>[1]</sup> It may refer to:

- Courts that literally sit '**on circuit**', i.e., judges move around a region or country to different towns or cities where they will hear cases;
- Courts that sit within a **judicial circuit**, i.e., an administrative division of a country's judiciary; or
- A higher-level trial court, e.g., for felony or indictment offences.

See full history [Wikipedia](#)

**Justice of the Peace, History** (Deleware):

As early as the 1600's, Justices of the Peace were commissioned to handle minor civil and criminal cases. Along with a host of other duties, the administering of local government in the 17th and 18th Centuries on behalf of the English Crown was a primary duty of the Justices of the Peace. With the adoption of the State Constitution of 1792, the Justices of the Peace were stripped of their general administrative duties leaving them with minor civil and criminal jurisdiction. During the period, 1792 through 1964, the Justices of the Peace were compensated entirely by the costs and fees assessed and collected for the performance of their legal duties. [Source](#)

## General Assembly:

**A popular assembly (or people's assembly)** is a gathering called to address issues of importance to participants. Assemblies tend to be freely open to participation and operate by direct democracy. Some assemblies are of people from a location, some from a given workplace, industry or educational establishment others are called to address a specific issue.

The term is often used to describe gatherings that address, what participants feel are, the effects of a democratic deficit in representative democratic systems.<sup>[1]</sup> Sometimes assemblies are created to form an alternative power structure, other times they work with other forms of government.

## Sect 2

### **Injunction**

An injunction is a court order requiring a person to do or cease doing a specific action. There are three types of injunctions: Permanent injunctions, Temporary restraining orders and preliminary injunctions. Temporary restraining orders (TRO) and preliminary injunctions are equitable in nature. They can be issued by the judge early in a lawsuit to stop the defendant from continuing their allegedly harmful actions. Choosing whether to grant temporary injunctive relief is up to the discretion of the court. Permanent injunctions are issued as a final judgment in a case, where monetary damages will not suffice. Failure to comply with an injunction may result in being held in contempt of court, which in turn may result in either criminal or civil liability. See, e.g., Roe v. Wade 410 US 113 (1973). Source

### **Mandamus**

A (writ of) mandamus is an order from a court to an inferior government official ordering the government official to properly fulfill their official duties. . . Source

### **Quo Warranto**

A writ of quo warranto is a common law remedy which is used to challenge a person's right to hold a public or corporate office. A state may also use a quo warranto action to revoke a corporation's charter. When bringing a

petition for [writ](#) of quo warranto, individual members of the public have standing as [citizens](#) and taxpayers.

In one case from Alabama, the court noted that the writ of quo warranto is “utilized to test whether person may lawfully hold office and the purpose of writ of quo warranto is to ascertain whether office holder is constitutionally and legally authorized to perform any act in, or exercise any functions of, office to which he or she lays claim” [Source](#)

## **Habeas Corpus**

from [Medieval Latin](#), 'that you have the body')[1] is a [recourse in law](#) by which a report can be made to a [court](#) in the events of [unlawful detention or imprisonment](#), requesting that the court order the person's custodian (usually a prison official) to bring the prisoner to court, to determine whether their detention is lawful. [Source](#)

## **Sect 8**

### **Courts of Original Equity:**

In the field of jurisprudence, **equity** is the particular body of law, developed in the English [Court of Chancery](#),[1] with the general purpose of providing legal remedies for cases wherein the common law is inflexible and cannot fairly resolve the disputed legal matter.[2] Conceptually, equity was part of the historical origins of the system of [common law](#) of England,[2] yet is a field of law separate from common law, because equity has its own unique rules and principles, and was administered by [courts of equity](#). [2]

Equity exists in domestic law, both in [civil law](#) and in [common law](#) systems, and in international law.[1] The tradition of equity begins in antiquity with the writings of [Aristotle](#) (*epieikeia*) and with [Roman law](#) (*aequitas*).[1][3] Later, in civil law systems, equity was integrated in the legal rules, while in common law systems it became an independent body of law.[1] See [More](#)

## **Sect 9**

### **Courts Of Ordinary:**

Has many definitions:

Ordinary Courts means state courts which hear public and private legal disputes.  
Ordinary Courts also means Probate Courts.

See [more](#)

See this excellent narrative

### **Difference between Constitutional Law and Ordinary Law**

#### **In a Nutshell:**

**Constitutional Law is fundamentally distinct from Ordinary Law. According to Dicey, it includes “all rules which directly or indirectly affect the distribution or the exercise of power in the State”, and which “are enforced by the courts.”**

**Constitutional Law** defines the organisation of the State, determines the functions exercised by different departments of government, and establishes the relationship between the rulers and the ruled.

#### **Ordinary Law:**

The State is both the child and the parent of law. The constitutional and the ordinary laws have different characters and have different sanctions. Ordinary law is made and enforced by the competent authorities of the State, and it determines the relations of the citizens to the State and to one another.

The courts take cognizance of this law alone, apply it in deciding cases of dispute, and the government enforces obedience to their decisions.

[Note: I do not know the time period this definition refers to.]

#### **Sect 13.**

**Clerk of Court.** Once a judge rules on a case, he is done with it,  
The Clerk then publishes it and speaks to the press regarding it.

#### **Sect 17:**

##### **Solicitor**

##### **United States**

## **Historical usage**

Historically, solicitors existed in the United States and, consistent with the pre-1850s usage in England and elsewhere, the term referred to a lawyer who argued cases in a court of equity, as opposed to an attorney who appeared only in courts of law.[\[22\]](#) With the chancery or equity courts disappearing or being subsumed under courts of law, by the late 19th century members of the fused profession were called "attorneys", with "solicitors" becoming obsolete.

## **Modern usage**

In modern American usage, the term solicitor in the legal profession refers to government lawyers.