GALE ENCYCLOPEDIA OF AMERICAN LAW

4th Edition

Volume 1

A to Ba

GALE

Gale Encyclopedia of American Law, 4th Edition

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LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Title: Gale encyclopedia of American law.
Description: 4th edition. | Farmington Hills, MI : Gale, a Cengage Company, [2022] | Includes bibliographical references and index. | Contents: v. 1. A to Ba -- v. 2. Be to Col -- v. 3. Com to Dor -- v. 4. DOT to Fre -- v. 5. Fri to I -- v. 6. J to Ma -- v. 7. Mc to Pl -- v. 8. Po to San -- v. 9. Sar to Ten -- v. 10. Ter to Z -- v. 11. Milestones in the law (Brown-Kelo) -- v. 12. Milestones in the law (Lawrence-Roe) -- v. 13. Primary documents -- v. 14. Dictionary of legal terms, Cases index, General index. | Summary: "Explains legal terms and concepts in everyday language. Covers a wide variety of topics including specific legislation, persons, entities, movements, and events that have shaped the U.S. legal system and influenced public perception of American law" -- Provided by publisher.
Identifiers: LCCN 2021027653 | ISBN 9780028677279 (set) | ISBN 9780028677286 (v. 1 ; hardcover) | ISBN 9780028677293 (v. 2 ; hardcover) | ISBN 9780028677309 (v. 3 ; hardcover) | ISBN 9780028677316 (v. 4 ; hardcover) | ISBN 9780028677323 (v. 5 ; hardcover) | ISBN 9780028677330 (v. 6 ; hardcover) | ISBN 9780028677347 (v. 7 ; hardcover) | ISBN 9780028677354 (v. 8 ; hardcover) | ISBN 9780028677361 (v. 9 ; hardcover) | ISBN 9780028677378 (v. 10 ; hardcover) | ISBN 9780028677385 (v. 11 ; hardcover) | ISBN 9780028677392 (v. 12 ; hardcover) | ISBN 9780028677408 (v. 13 ; hardcover) | ISBN 9780028677415 (v. 14 ; hardcover) | ISBN 9780028677590 (ebk)
Subjects: LCSH: Law--United States--Encyclopedias. | Law--United States--Popular works.
Classification: LCC KF154 .W47 2022 | DDC 349.7303--dc23
LC record available at https://lccn.loc.gov/2021027653

Gale, Part of Cengage Group
27500 Drake Rd.
Farmington Hills, MI 48331-3535

ISBN 978-0-02-867727-9 (set)
ISBN 978-0-02-867728-6 (Vol. 1)
ISBN 978-0-02-867729-3 (Vol. 2)
ISBN 978-0-02-867730-9 (Vol. 3)
ISBN 978-0-02-867731-6 (Vol. 4)
ISBN 978-0-02-867732-3 (Vol. 5)
ISBN 978-0-02-867733-0 (Vol. 6)
ISBN 978-0-02-867734-7 (Vol. 7)
ISBN 978-0-02-867735-4 (Vol. 8)
ISBN 978-0-02-867736-1 (Vol. 9)
ISBN 978-0-02-867737-8 (Vol. 10)
ISBN 978-0-02-867738-5 (Vol. 11)
ISBN 978-0-02-867739-2 (Vol. 12)
ISBN 978-0-02-867740-8 (Vol. 13)
ISBN 978-0-02-867741-5 (Vol. 14)

This title is also available as an ebook.
ISBN 978-0-02-867759-0 (ebk)
Contact your Gale sales representative for ordering information.

Printed in Mexico
1 2 3 4 5 6 7 25 24 23 22 21

DEDICATION

Gale Encyclopedia of American Law (GEAL) is dedicated to librarians and library patrons throughout the United States and beyond. Your interest in the American legal system helps to expand and fuel the framework of our Republic.

Contents

PREFACE

The U.S. legal system is admired around the world for the freedoms it allows the individual and the fairness with which it attempts to treat all persons. On the surface, it may seem simple, yet those who have delved into it know that this system of federal and state constitutions, statutes, regulations, and common-law decisions is both elaborate and complex. It derives from the English common law, but includes principles older than England, along with some principles from other lands. The U.S. legal system, like many others, has a language all its own, but too often it is an unfamiliar language—many concepts are still phrased in Latin. The fourth edition of *Gale Encyclopedia of American Law* (*GEAL*), formerly *West's Encyclopedia of American Law*, explains legal terms and concepts in everyday language. It also covers a wide variety of persons, entities, and events that have shaped the U.S. legal system and influenced public perceptions of American law.

NEW ELEMENTS OF THE 4th EDITION

All entries have been reviewed for updates, and more than half have been revised or are new to the 4th edition. Bibliographies within the entries have been updated, and in addition, to support users seeking further exploration of a topic, the number of entries providing a bibliography has been expanded by 10 percent. Photos, tables, charts, graphs, and forms have also been reviewed and refreshed where indicated; color was similarly added where appropriate. Cross references within each entry have been consolidated into a single location at the end of each entry to better guide the user when moving from one topic to other related topics.

MAIN FEATURES OF THIS SET: VOLUMES 1 through 10

Volumes 1 through 10 constitute the main body of *GEAL*, an A to Z compilation of nearly 5,000 entries comprising topical essays, biographies, legal definitions, and "In Focus" essays and sidebars.

Topical Entries

Topical entries are devoted to concepts, events, movements, cases, and legislation significant to U.S. law. The 4th edition includes new entries on such topics as "Cryptocurrency," "Transgender Rights," and "The 2020 Elections."

Biographies

GEAL profiles a wide variety of interesting and influential people—including lawyers, judges, government and civic leaders, as well as historical and modern figures—who have played a part in creating or shaping U.S. law. Each biography includes a timeline, which shows important moments in the subject's life as well as important historical events of the period. New biographies for the 4th edition include contemporary figures such as Donald Trump and Joe Biden.

Definitions

Every entry on a legal term found in *GEAL* is followed by a definition, which appears at the beginning of the entry and is italicized. For some terms, further discussion (often lengthy) may follow the definition. Volume 14 of this set includes a glossary titled "Dictionary of Legal Terms," which contains all the definitions from this set in a central location.

"In Focus" Essays

"In Focus" essays accompany related entries and provide additional facts, details, and arguments on particularly interesting, important, or controversial issues raised by those entries. The subjects covered include hotly contested issues such as abortion, capital punishment, and the legalization of recreational marijuana use; detailed processes, such as the Food and Drug Administration's approval process for new drugs; and other important historical and social issues, such as debates over LGBTQ rights and the formation of the U.S. Constitution.

Sidebars

Like "In Focus" essays, sidebars provide brief highlights of some interesting facet of accompanying entries. They complement regular entries and "In Focus" essays by adding informative details to enhance study. Sidebar topics include such subjects as scandals within the hedge fund financial industry and vaping regulations.

Additional Features within Entries

- **Photos, Tables, Charts, Graphs, and Legal Forms.** More than 900 images (most now in color) accompany entries within the encyclopedia, enhancing the ideas presented in the text.
- **Further Readings.** To facilitate additional research, a bibliography is included in a majority of main entries found in Volumes 1 through 10.
- **Cross References.** *GEAL* provides cross references at the end of most entries, comprising related entries, milestones, and primary documents that the reader may wish to explore, listed alphabetically by title. *GEAL* also contains blind entries for alternate or outdated entry names interfiled within the main entry names.

ADDITIONAL FEATURES OF THIS SET: VOLUMES 11 through 14

Four appendix volumes are included with this edition of *GEAL*, containing hundreds of pages of documents, laws, manuscripts, and forms fundamental to and characteristic of U.S. law, as well as a dictionary of legal terms and two indexes.

Milestones in the Law (Appendix, Volumes 11 and 12)

Volumes 11 and 12 of *GEAL*, which are subtitled "Milestones in the Law," offer a closer look at 12 landmark cases in U.S. legal history. Readers can explore the reasoning of the judges and the arguments of the attorneys that produced major decisions on important legal and social issues. Each milestone case opens with a brief introduction, as well as questions for discussion to aid in classroom use. Included in each milestone are the opinions of the lower courts; the briefs presented by the parties to the U.S. Supreme Court; and the decision of the U.S. Supreme Court, including the majority opinion and all concurring and dissenting opinions for each case. Court cases included in these two volumes range from *Marbury v. Madison* to *Brown v. Board of Education of Topeka, Kansas* to *Obergefell v. Hodges*.

Primary Documents (Appendix, Volume 13)

Volume 13 of *GEAL* contains more than 70 primary documents arranged into four broad topics: foundations of U.S. law, civil rights, reflections on law and society, and legal miscellany. These documents date as far back as the Magna Carta and all the way into the twenty-first century. The study of primary documents helps students develop analytical abilities, fostering critical and original thinking; to aid this effort, each primary document begins with a brief introduction that provides context for the document. This appendix includes such artifacts as the Articles of Confederation, the Monroe Doctrine, the Americans with Disabilities Act of 1990, the Violence against Women Act of 1994, and several presidential speeches.

Dictionary of Legal Terms (Appendix, Volume 14)

This appendix contains all legal terms defined throughout the ten main volumes of *GEAL* into a single dictionary for quick reference.

Cases Index (Volume 14)

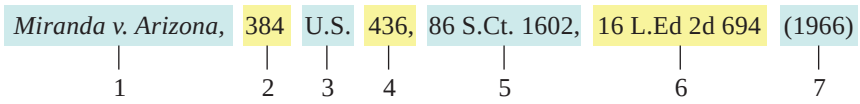
The Cases Index cites all court cases discussed within the ten main volumes of the set, whether they are the subject of an entry, discussed within another entry, or appear as an entry in the "Milestones in the Law" appendix.

General Index (Volume 14)

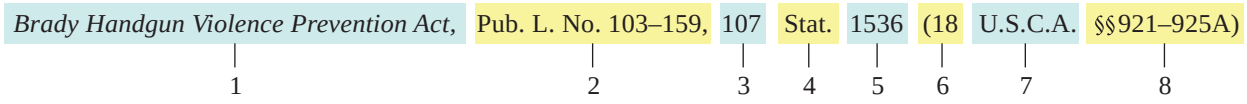
The General Index is a master subject index of entries, topics, events, concepts, movements, legislation, people, court cases, legal terms, and primary documents referenced in the ten main volumes.

A NOTE ON CITATIONS

Wherever possible, *GEAL* entries include citations for cases and statutes mentioned in the text. These allow readers wishing to do additional research to easily locate the opinions and statutes cited. Two sample citations, with explanations of common citation terms, can be seen on the following page.



1. *Case title*. The title of the case is set in italics and indicates the names of the parties. The suit in this sample citation was between Ernesto A. Miranda and the state of Arizona.
2. *Reporter volume number*. The number preceding the reporter name indicates the reporter volume containing the case. (The volume number appears on the spine of the reporter, along with the reporter name).
3. *Reporter name*. The reporter name is abbreviated. The suit in the sample citation is from the reporter, or series of books, called *U.S. Reports*, which contains cases from the U.S. Supreme Court. (Numerous reporters publish cases from the federal and state courts.)
4. *Reporter page*. The number following the reporter name indicates the reporter page on which the case begins.
5. *Additional reporter page*. Many cases may be found in more than one reporter. The suit in the sample citation also appears in volume 86 of the *Supreme Court Reporter*, beginning on page 1602.
6. *Additional reporter citation*. The suit in the sample citation is also reported in volume 16 of the *Lawyers' Edition*, second series, beginning on page 694.
7. *Year of decision*. The year the Court issued its decision in the case appears in parentheses at the end of the citation.



1. *Statute title.* The title of the statute is set in italics and indicates the name given to the statute or act. The Act in this sample citation captures the origin and key terms related to the legislation.
2. *Public law number.* In the sample citation, the number 103 indicates this law was passed by the 103d Congress, and the number 159 indicates it was the 159th law passed by that Congress.
3. *Reporter volume number*. The number preceding the reporter abbreviation indicates the reporter volume containing the statute.
4. *Reporter name*. The reporter name is abbreviated. The statute in the sample citation is from *Statutes at Large*.
5. *Reporter page*. The number following the reporter abbreviation indicates the reporter page on which the statute begins.
6. *Title number.* Federal laws are divided into major sections with specific titles. The number preceding a reference to the U.S. Code in the sample citation stands for the section called Crimes and Criminal Procedure.
7. *Additional reporter*. The statute in the sample citation may also be found in the *U.S. Code Annotated*.
8. *Section numbers*. The section numbers following a reference to the *U.S. Code Annotated* indicate where the statute appears in that reporter.

How to Use this Book

1 Article Title
2 Definition in italics with Latin translation provided
3 First-level subhead
4 Sidebar expands upon an issue addressed briefly in the article
5 Quotation from subject of biography
6 Biography of contributor to American law
7 Timeline for subject of biography
8 In Focus article examines a controversial or complex aspect of the article topic
9 Further readings to facilitate research
10 Cross references at end of article
11 See reference
12 Full cite for case

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than $100,000. During the war, Carroll continued to support the Union by broadly interpreting the federal government's war powers. In one case, he wrote an opinion refusing to release a prisoner if evidence showed that he was a Confederate sympathizer. After 1862, Carroll also worked hard to keep order in the states forming the new circuit: Tennessee, Arkansas, Louisiana, Texas, and Kentucky. He stayed in close touch with President ABRAHAM LINCOLN and worked hand to keep the federal judiciary effective during the war.

On May 30, 1865, Carroll, one of the last embodiments of Jacksonian democracy to leave the national scene, died in his adopted city of Nashville.

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CROSS REFERENCES

Federal Review; Native American Rights.

2 **CAUSA MORTIS**

[Latin, In contemplation of approaching death.] *A phrase sometimes used in reference to a deathbed gift, or a gift* causa mortis, *since the giving of the gift is made in expectation of approaching death. A gift causa mortis is distinguishable from a gift inter vivos, which is a gift made during the donor's (the giver's) lifetime.*

The donor of the gift of PERSONAL PROPERTY must expect to die imminently from a particular ailment or event. This has important consequences in terms of the donor's ability to revoke the gift.

For example, an elderly man is suffering from pneumonia and believes he is going to die as a result of the sickness. He tells his grandson that if he dies, he will give the grandson his pocket watch. If the man recovers and wants to retain his watch, he will be able to do so, because a gift causa mortis is effective only if made in CONTEMPLATION OF DEATH due to a known condition and the donee actually dies as a result of that condition.

A gift causa mortis is taxed under federal estate tax law in the same way as a gift bequeathed by a will.

1

CAUSE

A suit, litigation, or action. Any question, civil or criminal, litigated or contested before a court of justice.

Cause and Causality in American Law

3

If an individual is fired from a job at the last for embezzlement, he or she is fired *for cause*—as distinguished from decisions or actions considered to be arbitrary or capricious.

In CRIMINAL PROCEDURE, PROBABLE CAUSE is the reasonable basis for the belief that someone has committed a particular crime. Before someone may be arrested or searched by a police officer without a warrant, probable cause must exist. This requirement is imposed to protect people from unreasonable or unrestricted invasions or intrusions by the government.

In the law of torts, the concept of causality is essential to a person's ability to successfully bring an action for injury against another person. The injured party must establish that the other person brought about the alleged harm. A defendant's liability is contingent upon the connection between his or her conduct and the injury to the PLAINTIFF. The plaintiff must prove that his or her injury would not have occurred but for the defendant's NEGLIGENCE or intentional conduct.

Actual, Concurrent, and Intervening Cause

The actual cause is the event directly responsible for an injury. If one person shoves another, thereby knocking the other person out an open window and he or she breaks a leg as a result of the fall, the shove is the actual cause of the injury. The IMMEDIATE CAUSE of the injury in this case would be the fall, since it is the cause that came right before the injury, with no intermediate causes. In some cases the actual cause and the immediate cause of an injury may be the same.

Concurrent causes are events occurring simultaneously to produce a given result. They are contemporaneous, but either event alone would bring about the effect that occurs. If one

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The First Payments of Social Security

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After the enactment of the Social Security Act of 1935 (42 U.S.C.A. § 301 et seq.) and the creation of the Social Security Administration (SSA), the federal government had a short time to establish the program before beginning to pay benefits. Monthly benefits were to begin in 1940. The period from 1937 to 1940 was to be used both to build up the trust funds and to provide a minimum period for participation for persons to qualify for monthly benefits.

From 1937 until 1940, however, Social Security paid benefits in the form of a single, lump-sum payment. The purpose of these one-time payments was to provide some compensation to people who contributed to the program but would not participate long enough to be vested for monthly benefits.

The first applicant for a lump-sum benefit was Ernest Ackerman, a Cleveland motorman who retired one day after the Social Security Program began. During his one day of participation in the program, five cents was withheld from Ackerman's pay for Social Security, and upon retiring, he received a lump-sum payment of seventeen cents.

Payments of monthly benefits began in January 1940. On January 31, 1940, the first monthly retirement check was issued to Ida May Fuller of Ludlow, Vermont, in the amount of $22.54. Fuller died in January 1975 at the age of one hundred. During her thirty-five years as a beneficiary, she received more than $20,000 in benefits.

pay into the Social Security system should be allowed to pay the funds into personal retirement accounts. Under this proposal, employees would have the option of converting these funds into other investments, such as stock. Bush did not push the issue hard during his first term, but in his second term he attempted to move it forward. However, the idea of privatizing Social Security went nowhere, and the precipitous decline in the STOCK MARKET beginning in the fall of 2007 provided fresh ammunition to the critics of the idea.

In 2009, the Social Security Administration predicted that the OASDI tax income would fall short of outlays by 2016, and the OASDI trust fund was predicted to be exhausted by 2037 if no adjustment were made to the programs. The total combined OASDI assets in 2008 amounted to $2.4 trillion.

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Silva-Sierra A. 1997. *The Pensions of Private Persons: The Lost Nineteen Years.* Cambridge, Mass.: Harvard Univ. Press.

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CROSS REFERENCES

Disability Discrimination; Elder Law; Health Care Law; Old Age, Survivors and Disability Insurance; Senior Citizens.

SOCIAL SECURITY ACT OF 1935

The Social Security Act (42 U.S.C.A. § 301 et seq.), designed to assist in the maintenance of the financial well-being of eligible persons, was enacted in 1935 as part of President FRANKLIN D. ROOSEVELT'S NEW DEAL.

In the United States, SOCIAL SECURITY did not exist on the federal level until the passage of the Social Security Act of 1935. This statute provided for a federal program of old-age retirement benefits and a joint federal-state venture of UNEMPLOYMENT COMPENSATION. In addition, it dispensed federal funds to aid the development at the state level of such programs as vocational rehabilitation, public health services, and child welfare services, along with

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IF SOMEONE HAS BEEN THE SUBJECT OF ILLEGAL LAW ENFORCEMENT ACTIVITIES, THEY SHOULD HAVE A DAY IN COURT. AND THAT'S WHAT THE COURTS ARE THERE FOR, TO PROTECT THE RIGHTS OF INDIVIDUALS AGAINST THE GOVERNMENT OR ANYONE ELSE WHO VIOLATES THEIR RIGHTS.

—Samuel Alito

Additionally, critics assailed the absence of alimony provisions in Texas FAMILY LAW as being unduly harsh. In a large number of divorces where neither spouse had acquired substantial assets during the marriage, Texas courts were powerless to compensate spouses who had sacrificed educational and career opportunities, since in such situations there were essentially no assets to divide in the first place. As a result, spouses who successfully pursued educational or career opportunities at the expense of their partner were allowed to walk away from the marriage "scot-free."

Despite the late twentieth-century universality of alimony laws in the all 50 states, lawmakers in some jurisdictions continued to propose legislation that would abolish it. In 1999 several Iowa legislators proposed a bill to abolish alimony, arguing that alimony laws provide incentive to get divorced. The bill never passed.

Because alimony is an award for support and maintenance that one spouse may be compelled to pay to another after DISSOLUTION of the marriage, it would seem to follow that no alimony could be awarded in a spouse following an ANNULMENT, which treats the marriage relationship as if it had never existed. In fact, alimony is not awarded to spouses under any conditions following the annulment of a marriage in most jurisdictions. However, in some jurisdictions the enforcement of a flat PROHIBITION of alimony awards to spouses whose marriages have been annulled has sometimes been found to impose unnecessary hardship on a spouse, usually the wife, especially where the parties have lived together for a considerable period of time. Consequently, judicial and legislative exceptions have been created to the basic rule of treating an annulled marriage as if it had never existed, for the purposes of determining whether an alimony award is appropriate. Under these exceptions, temporary as well as permanent alimony have been awarded.

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CROSS REFERENCES

A Menu: It Then; Child Support; Damages; Divorce; Family Law; Husband and Wife; Marriage; No Fault Divorce; Sex Discrimination.

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ALITO, SAMUEL ANTHONY, JR.

SAMUEL ALITO is a conservative justice appointed to the U.S. Supreme Court in 2006. Upon his confirmation, he became the 110th associate justice in the Court's history and only the second Italian-American. He replaced Sandra Day O'Connor on the Court.

Alito was born on April 1, 1950, in Trenton, New Jersey. His father emigrated from Italy as a boy and became a high school teacher. His father later changed careers in the 1950s to work as the research director of a nonpartisan agency that analyzed legislation for state legislators. Alito's mother was an elementary school principal. Alito excelled as a student, deciding on a legal career after discovering a special affinity for in-depth research and finely honed argument on the high school debate team. He graduated as valedictorian of his class and headed off to Princeton University in 1968.

After receiving his undergraduate degree in 1972, Alito pursued a law degree at Yale Law School, where he graduated in 1975. At Yale he served as an editor of the *Yale Law Journal* and quickly became known as a traditionalist with a quick intellect. It was a reputation that he was to carry with him throughout his working life. In 1976 Alito was hired as a law clerk by THIRD CIRCUIT COURT of Appeals Judge Leonard I. Garth (who eventually became a colleague when Alito was named to the same bench). After clerking for Garth, Alito spent 1977 to 1981 as an assistant U.S. attorney in New Jersey. He then went to Washington, D.C., to work for the DEPARTMENT OF JUSTICE, first as an assistant to the SOLICITOR GENERAL from 1981 to 1985 and then as a deputy assistant attorney general from 1985 to 1987. In the former position, he argued several cases before the U.S. Supreme Court. By 1987 Alito returned to New Jersey as U.S. attorney, in which role he handled cases from ORGANIZED CRIME to CHILD PORNOGRAPHY.

Alito took a seat on the U.S. Court of Appeals for the Third Circuit in 1990. While his time there undisputedly marked him as a solidly conservative JURIST, it also showed a man unwilling to express his political views openly. He was widely respected by Democrats and

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Republicans alike, and few saw him as either rigid or an ideologue. Still, one of Alito's controversial opinions was his lone DISSENT in a 1991 case that struck down a Pennsylvania law requiring married women seeking abortions to inform their husbands *Planned Parenthood of Southeastern Pennsylvania v. Casey*, 947 F. 2d 682). He also concluded in a 1998 opinion that a holiday display that included secular symbols along with religious ones did not violate the FIRST AMENDMENT. By contrast, Alito voted with the majority to find a ban on late-term abortions unconstitutional where there is no exception considering the health of the mother. These, and the broad array of other published opinions stemming from 15 years on the bench, were to come under intense scrutiny when Alito was nominated to replace retiring U.S. Supreme Court Justice O'Connor in October 2005.

Alito's nomination came in the wake of the withdrawal of previous nominee Harriet E. Miers, whom many believed was unqualified for the position. It also came at a time when President GEORGE W. BUSH was lagging in the polls and there was increasing acrimony between parties in the Senate. The situation was further sharpened by O'Connor's pivotal role as a centrist justice on a fairly divided Court, thus making the stakes particularly high for both parties in finding a suitable replacement. In short, there was little doubt that Alito's confirmation hearings were destined to be difficult and time-consuming, with conservative and liberal agendas likely to take precedence.

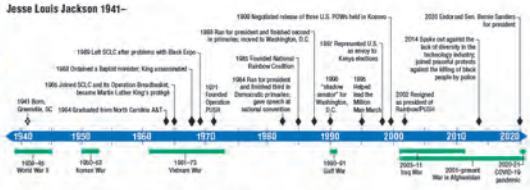
Several groups, including the AMERICAN CIVIL LIBERTIES UNION, strongly opposed Alito's nomination. According to the ACLU, Alito "had displayed a "willingness to support government actions that abridge individual freedoms." In reviewing Alito's professional qualifications, though, a committee of the AMERICAN BAR ASSOCIATION concluded that Alito was "well-qualified" to serve on the Court.

Samuel Alito.
STEVE PETTEWAY. COLLECTION OF THE SUPREME COURT OF THE UNITED STATES

As expected, the ideological battle between the parties caused great friction and talk of filibustering the Alito nomination. Despite Democratic attempts to block a vote on the nomination by filibustering, a Senate closure motion ended debate by a 72-25 vote. The closure motion forced a vote on the nomination, and the Senate confirmed Alito by a 58-42 vote, the smallest margin since CLARENCE THOMAS

7

Jesse Louis Jackson 1941–



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IN FOCUS

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THE FUTURE OF SOCIAL SECURITY

The payment of RETIRED SURVIVORS AND DISABILITY INSURANCE (OASDI) benefits has been a cornerstone of U.S. social welfare policy since the establishment of the Social Security Administration (SSA) in 1935. At the same time, the long-term financial stability of OASDI has been a constant worry. In the early 2000s, concerns about Social Security mounted as policy makers assessed the impact of the retirement of the "Baby Boom" generation. Many younger people raised the issue of "generation equity." They express doubt that Social Security benefits will be available when they retire and argue that they will be forced to pay, through payroll taxes, for the baby boomers' retirement benefits.

Reform of the Social Security system has always been a politically charged subject. Retirees and those approaching retirement form a strong LOBBYING force, and they zealously protect their benefits. Employers and employees are equally vocal in their opposition to higher payroll taxes to fund OASDI. Thus, changes in Social Security required bipartisan support, which materialized in the face of an impending Social Security crisis. The 1982–1983 National Commission on Social Security Reform successfully secured from Congress the short-term financing of OASDI. As a result, Congress passed a series of laws meant to accumulate surpluses as a hedge against future burdens. The Social Security surplus is the amount by which revenue from the federal payroll tax exceeds the amount of Social Security benefits paid out.

Shortly after these new laws went into effect, Social Security began running a surplus. Surplus Social Security revenue can be used to fund other government programs and to help retire the national debt. During the favorable economic climate of the late 1990s, Congress began to use the surplus to pay down the federal debt, hoping to better position the government to meet its obligations to future retirees. Also, in 2000, the federal government generated enough revenue so that the entire Social Security surplus was available for paying off debt.

The state of Social Security became a major campaign issue in the 2000 election, with both Republicans and Democrats attempting to appear as though they were guardians of Social Security assets. Candidates from both parties promised to create a "lockbox," meaning that the Social Security surplus would be spent entirely on debt retirement. With the advent of fiscal lean years in the early 2000s, the lockbox approach was largely disregarded by politicians who advanced other ideas about what to do with Social Security surpluses. These ideas included using the surplus to help offset decreases in revenues brought about by tax cuts and using the surplus to fund new or expanded spending initiatives.

Analysts argue that the real issue often is clouded. It is not how to spend the surplus now, but how to maintain the long-term solvency of the Social Security trust fund. Planners estimate that the income from the trust fund will exceed expenses each year until 2017. The trust fund balances will then start to decline as investments are redeemed to meet the increased expenses from a swelling retired workforce. The SSA estimates that beginning in 2041, payroll taxes would have to rise to 28 percent to cover the projected deficit.

In its 1996 report, the Social Security Administration's Advisory Council looked at various long-term financing options for OASDI. The council could not reach consensus on a specific long-term plan, but it did suggest several types of financing that represent a marked departure from previous efforts to fund Social Security. The council noted that past efforts have generally featured cutting benefits and raising tax rates on a "pay-as-you-go" basis. The council agreed that this approach must be changed and offered three ways of restoring financial solvency.

One approach, called Maintenance of Benefits (MB), calls for an increase in income taxes on OASDI benefits, a redirection of some revenue from other trust funds, and, most importantly, the accretion of a plan allowing the federal government to invest a portion of the trust fund assets directly in common stocks. Rates of returns on stocks have historically exceeded those on federal government bonds, where all Social Security funds are invested. If the returns

legislative changes. The final bill, signed into law in 1983 (Pub. L. 98-21, 97 Stat. 65), made numerous changes in the Social Security and Medicare Programs; these changes included taxing Social Security benefits, extending Social Security coverage to federal employees, and increasing the retirement age in the twenty-first century.

By the 1990s, however, concerns were again raised about the long-term financial viability of Social Security and Medicare. Various ideas and plans to ensure the financial stability of these programs were put forward. The budget committees in both the HOUSE OF REPRESENTATIVES and the SENATE established task forces to investigate proposals for Social Security reform. Other

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The Supreme Court, in a unanimous decision (Justice WILLIAM O. DOUGLAS recused himself because he had served in the Nixon administration), recognized for the first time the general legitimacy of executive privilege. Nevertheless, Chief Justice WARREN E. BURGER, writing for the Court, rejected Nixon's claim of "an absolute, unqualified Presidential privilege of IMMUNITY from judicial process under all circumstances." Burger found that [a]bsent a claim of need to protect military, diplomatic, or sensitive national security secrets," the need to protect the confidentiality of presidential communications must give way to a legitimate request by the courts for information vital to a criminal prosecution. Burger noted that the judge would review the subpoenaed tapes in private to determine what portions should be released to the prosecutors. This confidential review would prevent sensitive, but irrelevant, information from being disclosed.

Nixon obeyed the order and turned the tapes over to the district court. When relevant portions were released, they revealed that the president had been intimately involved with the attempts to cover up White House involvement in the Watergate burglary. Less than three weeks after the Court announced its decision, Nixon resigned the presidency, thereby avoiding IMPEACHMENT by Congress.

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CROSS REFERENCES

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NLRB

See NATIONAL LABOR RELATIONS BOARD.

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From the 1870s through the mid-1930s the U.S. Supreme Court was generally hostile to federal legislation that sought to regulate business through the use of the Constitution's COMMERCE CLAUSE. A conservative judiciary believed that the free market should govern economic activities consequently laws that attempted to regulate labor relations were overturned. The Great Depression of the 1930s led to the presidential election in 1932 of FRANKLIN D. ROOSEVELT, who advocated an aggressive role for the federal government in national economic affairs. Congress consistently turned Roosevelt's legislative agenda into law yet the Supreme Court ruled these new laws unconstitutional. However, in the landmark case of *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1, 57 S.Ct. 615, 81 L. Ed. 893 (1937), the Court reversed course, paving the way for new FDR legislation and a new judicial attitude toward the Commerce Clause.

For generations LABOR UNIONS had confronted a business community that was hostile to the concept of COLLECTIVE BARGAINING. Therefore, the passage of the National Labor Relations Act (NLRA or WAGNER ACT) of 1935 (29 U.S.C.A. § 151 et seq.) was a dramatic recognition of workers' rights. The law gave workers the right to organize unions and to require employers to negotiate with a certified union. An elaborate administrative process was also established, headed by the National Labor Relations Board (NLRB). The NLRB was create to review complaints about alleged violations of the law and issue administrative sanctions against employers for retaliatory discharges based on union membership or organization activities. Employers vowed to test the constitutionality of the NLRA and the actions of the NLRB.

In July 1935, 13 employees of the Jones and Laughlin Steel Corporation plant in Aliquippa, Pennsylvania, were discharged for minor infractions of company rules. Most of these workers had been actively involved in a union. The union filed with the NLRB a charge of UNFAIR LABOR PRACTICES against the steel company, claiming that the discharges were because of union membership. At a subsequent NLRB hearing, Jones & Laughlin argued that the NLRA was unconstitutional because it regulated labor relations and not interstate commerce. Therefore, Congress had no authority to regulate labor relations. The NLRB rejected the argument and found that the company was the fourth largest steel producer in the United States and was clearly involved in interstate commerce. It ordered the workers reinstated and directed Jones & Laughlin to cease and

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