WEST'S ENCYCLOPEDIA *of* AMERICAN LAW

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How to Use This Book

❚1❚ Article Title

❚2❚ Definition in italics with Latin translation provided

❚3❚ First-level subhead

❚4❚ Timeline for subject of biography, including general historical events and life events

❚5❚ Sidebar expands upon an issue addressed briefly in the article

❚6❚ Quotation from subject of biography

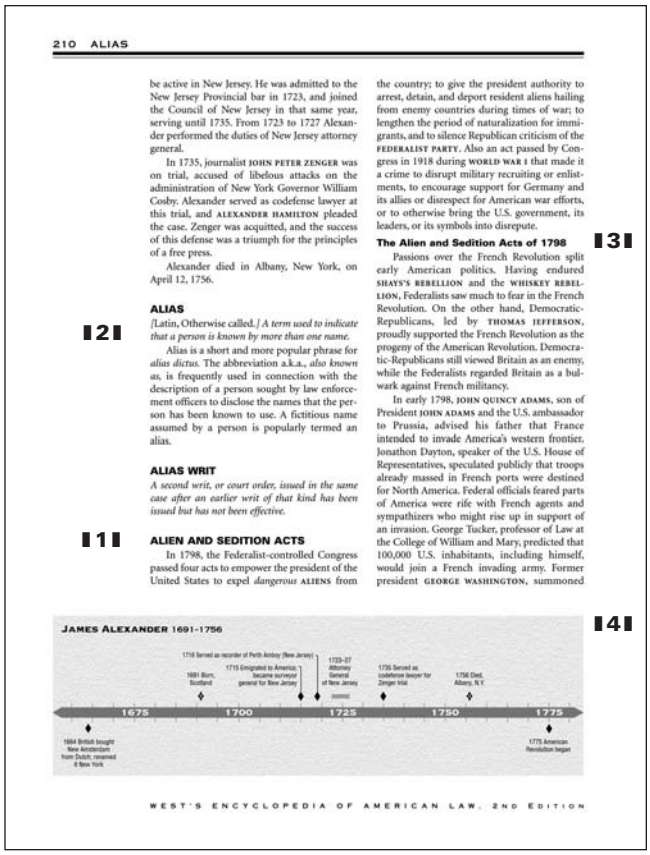
❚7❚ Biography of contributor to American law

❚8❚ Internal cross-reference to entry within WEAL

❚9❚ In Focus article examines a controversial or complex aspect of the article topic

❚10❚ Cross-references at end of article

❚11❚ Full cite for case



be active in New Jersey. He was admitted to the New Jersey Provincial bar in 1723, and joined the Council of New Jersey in that same year, serving until 1735. From 1723 to 1727 Alexander performed the duties of New Jersey attorney general.

In 1735, journalist JOHN PETER ZENGER was on trial, accused of libelous attacks on the administration of New York Governor William Cosby. Alexander served as codefense lawyer at this trial, and ALEXANDER HAMILTON pleaded the case. Zenger was acquitted, and the success of this defense was a triumph for the principles of a free press.

Alexander died in Albany, New York, on April 12, 1756.

ALIAS

❚2❚ *[Latin, Otherwise called.] A term used to indicate that a person is known by more than one name.*

Alias is a short and more popular phrase for *alias dictus.* The abbreviation a.k.a., *also known as,* is frequently used in connection with the description of a person sought by law enforcement officers to disclose the names that the person has been known to use. A fictitious name assumed by a person is popularly termed an alias.

ALIAS WRIT

A second writ, or court order, issued in the same case after an earlier writ of that kind has been issued but has not been effective.

❚1❚ **ALIEN AND SEDITION ACTS**

In 1798, the Federalist-controlled Congress passed four acts to empower the president of the United States to expel *dangerous* ALIENS from the country; to give the president authority to arrest, detain, and deport resident aliens hailing from enemy countries during times of war; to lengthen the period of naturalization for immigrants, and to silence Republican criticism of the FEDERALIST PARTY. Also an act passed by Congress in 1918 during WORLD WAR I that made it a crime to disrupt military recruiting or enlistments, to encourage support for Germany and its allies or disrespect for American war efforts, or to otherwise bring the U.S. government, its leaders, or its symbols into disrepute.

❚3❚ **The Alien and Sedition Acts of 1798**

Passions over the French Revolution split early American politics. Having endured SHAYS'S REBELLION and the WHISKEY REBELLION, Federalists saw much to fear in the French Revolution. On the other hand, Democratic-Republicans, led by THOMAS JEFFERSON, proudly supported the French Revolution as the progeny of the American Revolution. Democratic-Republicans still viewed Britain as an enemy, while the Federalists regarded Britain as a bulwark against French militancy.

In early 1798, JOHN QUINCY ADAMS, son of President JOHN ADAMS and the U.S. ambassador to Prussia, advised his father that France intended to invade America's western frontier. Jonathon Dayton, speaker of the U.S. House of Representatives, speculated publicly that troops already massed in French ports were destined for North America. Federal officials feared parts of America were rife with French agents and sympathizers who might rise up in support of an invasion. George Tucker, professor of Law at the College of William and Mary, predicted that 100,000 U.S. inhabitants, including himself, would join a French invading army. Former president GEORGE WASHINGTON, summoned

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❚5❚

The First Payments of Social Security

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.

tions to Social Security. There is no financial need requirement to be satisfied. Once a worker qualifies for protection, his family is also entitled to protection. The entire program is geared toward helping families as a matter of social policy.

Two large funds of money are held in trust to pay benefits earned by people under OASDI: the Old Age and Survivors Trust Fund and the Disability Insurance Trust Fund. As workers and employers make payroll contributions to these funds, money is paid out in benefits to people currently qualified to receive monthly checks.

The OASDI program is funded by payroll taxes levied on employees and their employers and on the self-employed. The tax is imposed upon the employee's taxable income, up to a maximum taxable amount, with the employer contributing an equal amount. The self-employed person contributes twice the amount levied on an employee. In 2003 the rate was 6.2 percent, levied on earned income up to a maximum of $87,000.

Old Age Benefits A person becomes eligible for Social Security old age benefits by working a minimum number of calendar quarters. The number of quarters required for full insurance increases with the worker's age. Forty quarters is the maximum requirement. The individual is credited for income up to the maximum amount of money covered by Social Security for those years. This amount is adjusted to reflect the impact of inflation on normal earnings and ensure that a worker who pays increasing Social Security contributions during his or her work life will receive retirement benefits that keep pace with inflation.

Persons born before 1950 can retire at age 65 with full benefits based on their average income during their working years. For those born between 1950 and 1960, the retirement age for full benefits has increased to age 66. Persons born in 1960 or later will not receive full retirement benefits until age 67. Any person, however, may retire at age 62 and receive less than full benefits. At age 65, a worker's spouse who has not contributed to Social Security receives 50 percent of the amount paid to the worker.

Since 1975 Social Security benefits have increased annually to offset the corrosive effects of inflation on fixed incomes. These increases, known as cost of living allowances (COLAs), are based on the annual increase in consumer prices. Allowing benefits to increase automatically ended the need for special acts of Congress, but it has also steadily increased the cost of the Social Security Program.

have the same inheritance rights as other children. The ruling was believed to be the first on the controversial issue by any state supreme court.

Also in January 2002, Marshall addressed the Massachusetts Bar Association Conference, where she called for "a revolution in the administration of justice" stating that the court system needed to improve its management system as well as its staffing and budget controls. In March 2002, her discussion of the court system's problems were amplified in a 52-page report that was published by a blue-ribbon panel appointed by Marshall.

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[6]

THE GOVERNMENT [THAT THE FRAMERS OF THE CONSTITUTION] DEVISED REQUIRED SEVERAL AMENDMENTS, A CIVIL WAR, AND MOMENTOUS SOCIAL TRANSFORMATION TO ATTAIN THE SYSTEM OF CONSTITUTIONAL GOVERNMENT, AND ITS RESPECT FOR THE INDIVIDUAL FREEDOMS AND HUMAN RIGHTS, THAT WE HOLD AS FUNDAMENTAL TODAY.
THURGOOD MARSHALL

MARSHALL PLAN

After **WORLD WAR II**, Europe was devastated and urgently needed an organized plan for reconstruction and economic and technical aid. The Marshall Plan was initiated in 1947 to meet this need.

The originator of the plan, U.S. Secretary of State George C. Marshall, introduced it in a speech at Harvard University on June 5, 1947. He pointed out two basic reasons for providing aid to Europe: the United States sought the reestablishment of the European countries as independent nations capable of conducting valuable trade with the United States; and the threat of a Communist takeover was more prevalent in countries that were suffering economic depression.

In 1947 a preliminary conference to discuss the terms of the program convened in Paris. The Soviet Union was invited to attend but subsequently withdrew from the program, as did other Soviet countries.

Sixteen European countries eventually participated, and, in July 1947, the Committee for European Economic Cooperation was established to allow representatives from member countries to draft a report that listed their requirements for food, supplies, and technical assistance for a four-year period.

The Committee for European Economic Cooperation subsequently became the Organization of European Economic Cooperation, an expanded and permanent organization that was responsible for submitting petitions for aid. In 1948, Congress passed the Economic Cooperation Act (62 Stat. 137), establishing funds for the Marshall Plan to be administered under the Economic Cooperation Administration, which was directed by Paul G. Hoffman.

Between 1948 and 1952, the sixteen-member countries received more than $13 billion dollars in aid under the Marshall Plan. The plan was generally regarded as a success that led to industrial and agricultural production, while stifling the Communist movement. The plan was not without its critics, however, and many Europeans believed the **COLD WAR** hostilities between the Soviet nations and the free world were aggravated by it.

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◊ MARSHALL, THURGOOD

Thurgood Marshall, the first African American to serve on the U.S. Supreme Court, saw law as a catalyst for social change. For nearly 60 years, as both a lawyer and a jurist, Marshall worked to dismantle the system of **SEGREGATION** and improve the legal and social position of minorities.

Marshall was born July 2, 1908, in Baltimore, the son of a Pullman porter and a schoolteacher. He was a graduate of Lincoln University, a small, all-black college in Pennsylvania, and Howard University Law School in Washington, D.C. At Howard, Marshall excelled under the guidance of Vice Dean **CHARLES HAMILTON HOUSTON**, the first African American to win a case before the U.S. Supreme Court. Houston encouraged his students to become not just lawyers but "social engineers" who could use the legal system to improve society. Marshall graduated first in his law class in 1933.

Marshall's attendance at predominantly black Howard University illustrates the barriers faced by African Americans during the early twentieth century. Although Marshall wished to attend law school at the University of Maryland (a public institution in his home town of Baltimore), he was prohibited by law from doing so because of his race. This injustice helped set Marshall on a course of opposing all forms of official segregation that denied equal opportunities to African Americans.

After law school, Marshall set up a practice in Baltimore, representing indigent clients in civil rights cases. In 1936, his mentor Houston offered him a position with the National Association for the Advancement of Colored People (**NAACP**),

and in 1940, Marshall became director of the **NAACP LEGAL DEFENSE AND EDUCATIONAL FUND**, a position he held until 1961. Determined to eliminate segregation, Marshall coordinated a nationwide campaign to integrate higher education. He filed several successful lawsuits against public graduate and professional schools that refused to accept African-American students. These suits paved the way for similar cases at the high school and elementary school levels. Marshall also journeyed throughout the deep South, traveling fifty thousand miles a year to fight **JIM CROW LAWS** (a series of laws that provided for racial segregation in the South) and to represent criminal defendants.

Marshall argued 32 cases before the U.S. Supreme Court and won 29 of them. No doubt his most famous and far-reaching triumph before the High Court was **BROWN V. BOARD OF EDUCATION OF TOPEKA, KANSAS**, 347 U.S. 483, 74 S. Ct. 686, 98 L. Ed. 873 (1954). In that case, the father of African-American student Linda Brown sued the school board of Topeka, Kansas, over its segregation policy. Brown was required by law to attend an all African-American school several blocks from her home even though an all white public school was located in her own neighborhood. Under Kansas law, cities of more than 15,000 people, such as Topeka, could choose to operate segregated schools. Marshall argued that these segregated schools, defended by officials as "separate but equal," were unconstitutional.

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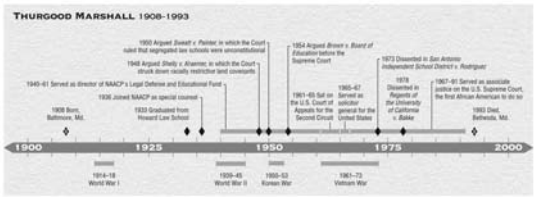
The **SEPARATE-BUT-EQUAL** doctrine originated in **PLESSY V. FERGUSON**, 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), a case allowing segregated public accommodations for whites and blacks. In a plainspoken argument, Marshall dismissed as fallacy the notion that segregated schools offered the same educational experiences to black and white students. Sociological and psychological studies demonstrated that black children were in fact harmed by the policy of school segregation. The students' self-esteem was damaged and their future diminished when they were forced to accept inadequate facilities, equipment, and educational opportunities. Marshall argued that the only purpose segregation served was to perpetuate the myth of African-Americans' inferiority. A unanimous Court agreed and struck down the separate-but-equal doctrine, a

Thurgood Marshall.
LIBRARY OF CONGRESS



THE FUTURE OF SOCIAL SECURITY

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The payment of **OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE** (OASDI) benefits has been a cornerstone of U.S. social welfare policy since the establishment of the **SOCIAL SECURITY ADMINISTRATION** in 1935. At the same time, the long-term financial stability of OASDI has been a constant worry. In the early years of the twenty-first century, 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 anger 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 political hot potato. 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 1982–83 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.

IN FOCUS

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. And, 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 elections, 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 fiscally 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 2020. The trust fund balances will then start to decline as investments are redeemed to meet the increased expenses from a swelling retired workforce. Although it is estimated that 75 percent of the costs would continue to be met from current payroll and income taxes, in the absence of any changes, full benefits could not be paid beginning in 2030.

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 adoption 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

A person who continues to work past the retirement age may lose some benefits because Social Security is designed to replace lost earnings. If earnings from employment do not exceed the amount specified by law, the person receives the full benefits. If earnings are greater than that amount, one dollar of benefit is withheld for every two dollars in wages earned above the exempt amount. Once a person reaches age 70, however, he does not have to report earnings to the SSA, and the benefit is not reduced.

Survivors' Benefits Survivors' benefits are paid to family members when a worker dies. Survivors can receive benefits if the deceased worker was employed and contributed to Social

momentous victory for Marshall, affecting public schools in twenty-one states.

Marshall was appointed to the U.S. Court of Appeals for the Second Circuit in 1961, and served there until 1965 when he was named **SOLICITOR GENERAL** for the United States. He was appointed to the U.S. Supreme Court in 1967 by President **LYNDON B. JOHNSON** and served as an associate justice for 24 years.

While on the Court, Marshall was known more for his impassioned dissents than for his majority opinions. In particular, as a staunch opponent of **CAPITAL PUNISHMENT**, he regularly voiced his disagreement with the majority in death penalty cases. He was also a firm backer of **AFFIRMATIVE ACTION** and contributed one of his most famous dissents in **REGENTS OF THE UNIVERSITY OF CALIFORNIA V. BAKKE**, 438 U.S. 265, 98 S. Ct. 2733, 57 L. Ed. 2d 750 (1978). In that case, Marshall criticized the high court's ruling that a public medical school's policy of reserving 16 of 100 spots for minority students was unconstitutional. Marshall also dissented in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, 93 S. Ct. 1278, 36 L. Ed. 2d 16 (1973), disagreeing with the majority view that a Texas property tax system used to fund public education was acceptable, even though it allowed wealthier districts to provide a better school system for students in those districts than less wealthy districts could provide. Marshall objected strongly to the property tax arrangement, claiming that it deprived poor children of an equal education.

Marshall wrote the majority opinion in *Amalgamated Food Employees Union v. Logan Valley Plaza*, 391 U.S. 308, 88 S. Ct. 1601, 20 L. Ed. 2d 603 (1968), in which the Court declared that a shopping center was a public forum from which picketers could not be barred by private owners.

Marshall retired from the Court in 1991, but continued his criticism of government policies that were detrimental to African Americans or other disenfranchised groups.

Marshall died on January 24, 1993, in Bethesda, Maryland. Upon Marshall's death, nearly 20,000 mourners filed by his casket during the 12 hours it lay in state in the Great Hall of the U.S. Supreme Court.

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CROSS-REFERENCES

[10]

Civil Rights Movement; Integration; School Desegregation.

MARTIAL LAW

The exercise of government and control by military authorities over the civilian population of a designated territory.

[11]

Martial law is an extreme and rare measure used to control society during war or periods of civil unrest or chaos. According to the Supreme Court, the term *martial law* carries no precise meaning (*Duncan v. Kahanamoku*, 327 U.S. 304, 66 S. Ct. 606, 90 L. Ed. 688 [1946]). However, most declarations of martial law have some common features. Generally, the institution of martial law contemplates some use of military force. To a varying extent, depending on the martial law order, government military personnel have the authority to make and enforce civil and criminal laws. Certain civil liberties may be suspended, such as the right to be free from unreasonable **SEARCHES AND SEIZURES**, **FREEDOM OF ASSOCIATION**, and freedom of movement. And the writ of **HABEAS CORPUS** may be suspended (this writ allows persons who are unlawfully imprisoned to gain freedom through a court proceeding).

In the United States, martial law has been instituted on the national level only once, during the Civil War, and on a regional level only once, during **WORLD WAR II**. Otherwise, it has been limited to the states. Uprisings, political protests, labor strikes, and riots have, at various times, caused several state governors to declare some measure of martial law.

Martial law on the national level may be declared by Congress or the president. Under

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