

WEST'S
ENCYCLOPEDIA
of
AMERICAN
LAW

2ND EDITION

VOLUME 1



A TO BA

WEST'S ENCYCLOPEDIA *of* AMERICAN LAW

2ND EDITION

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West's Encyclopedia of American Law, 2nd Edition

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WEST'S
ENCYCLOPEDIA
of
AMERICAN
LAW

2ND EDITION

DEDICATION

West's Encyclopedia of American Law
(WEAL) 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 frame-
work of our Republic.



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 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 second edition of *West's Encyclopedia of American Law (WEAL)* explains legal terms and concepts in everyday language, however. It covers a wide variety of persons, entities, and events that have shaped the U.S. legal system and influenced public perceptions of it.

MAIN FEATURES OF THIS SET

Entries

This encyclopedia contains nearly 5,000 entries devoted to terms, concepts, events, movements, cases, and persons significant to U.S. law. Entries on legal terms contain a definition of the term, followed by explanatory text if necessary. Entries are arranged alphabetically in standard encyclopedia format for ease of use. A wide variety of additional features, listed later in this preface, provide interesting background and supplemental information.

Definitions Every entry on a legal term is followed by a definition, which appears at the beginning of the entry and is italicized. The Dictionary and Indexes volume includes a glossary containing all the definitions from *WEAL*.

Further Readings To facilitate further research, a list of Further Readings is included at the end of a majority of the main entries.

Cross-References *WEAL* provides two types of cross-references, within and following entries. Within the entries, terms are set in small capital letters—for example, *LIEN*—to indicate that they have their own entry in the encyclopedia. At the end of the entries, related entries the reader may wish to explore are listed alphabetically by title.

Blind cross-reference entries are also included to direct the user to other entries throughout the set.

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 gay rights; detailed processes, such as the Food and Drug Administration's approval process for new drugs; and important historical or social issues, such as debates over the formation of the U.S. Constitution.

Sidebars

Sidebars provide brief highlights of some interesting facet of accompanying entries. They

complement regular entries and In Focus essays by adding informative details. Sidebar topics include the Million Man March and the branches of the U.S. armed services. Sidebars appear at the top of a text page and are set in a box.

Biographies

WEAL profiles a wide variety of interesting and influential people—including lawyers, judges, government and civic leaders, and 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. Biographies appear alphabetically by the subject's last name.

ADDITIONAL FEATURES OF THIS SET

Enhancements Throughout *WEAL*, readers will find a broad array of photographs, charts, graphs, manuscripts, legal forms, and other visual aids enhancing the ideas presented in the text.

Indexes *WEAL* features a cases index and a cumulative index in a separate volume.

Appendixes

Three appendix volumes are included with *WEAL*, containing hundreds of pages of docu-

ments, laws, manuscripts, and forms fundamental to and characteristic of U.S. law.

Milestone Cases in the Law

A special Appendix volume entitled *Milestones in the Law*, allows readers to take a close look at landmark cases in U.S. law. Readers can explore the reasoning of the judges and the arguments of the attorneys that produced major decisions on important legal and social issues. 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 Supreme Court, including the majority opinion and all concurring and dissenting opinions for each case.

Primary Documents

There is also an Appendix volume containing more than 60 primary documents, such as the English Bill of Rights, Martin Luther King Jr.'s Letter from Birmingham Jail, and several presidential speeches.

Citations

Wherever possible, *WEAL* entries include citations for cases and statutes mentioned in the text. These allow readers wishing to do additional research to find the opinions and statutes cited. Two sample citations, with explanations of common citation terms, can be seen below and opposite.

Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed. 2d 694 (1966)

1 2 3 4 5 6 7

1. *Case title.* The title of the case is set in i 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 *Lawyer's 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 cite.

<i>Brady Handgun Violence Prevention Act</i> ,	Pub. L. No.	103-159,	107	Stat. 1536	(18	U.S.C.A.	§§ 921-925A)
1	2	3	4	5	6	7	8

1. *Statute title.*
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 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.

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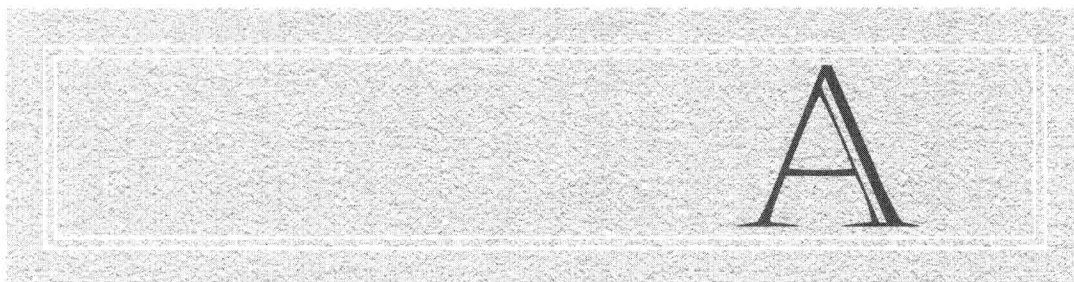
Milestones in the Law

VOLUME 12

Primary Documents

VOLUME 13

Dictionary of Legal Terms
Cases Index
General Index



A FORTIORI

[Latin, With stronger reason.] *This phrase is used in logic to denote an argument to the effect that because one ascertained fact exists, therefore another which is included in it or analogous to it and is less improbable, unusual, or surprising must also exist.*

A MENSA ET THORO

Latin, From table and bed, *but more commonly translated as "from bed and board."*

This phrase designates a **DIVORCE** which is really akin to a separation granted by a court whereby a **HUSBAND AND WIFE** are not legally obligated to live together, but their marriage has not been dissolved. Neither spouse has the right to remarry where there is a divorce *a mensa et thoro*; only parties who have been awarded a divorce *a vinculo matrimonii*, the more common type of divorce, can do so.

A POSTERIORI

[Latin, From the effect to the cause.]

A posteriori describes a method of reasoning from given, express observations or experiments to reach and formulate general principles from them. This is also called inductive reasoning.

A PRIORI

[Latin, From the cause to the effect.]

This phrase refers to a type of reasoning that examines given general principles to discover what particular facts or real-life observations can be derived from them. Another name for this method is deductive reasoning.

AB INITIO

[Latin, From the beginning; from the first act; from the inception.] *An agreement is said to be "void ab initio" if it has at no time had any legal validity. A party may be said to be a trespasser, an estate said to be good, an agreement or deed said to be void, or a marriage or act said to be unlawful, ab initio. Contrasted in this sense with EX POST FACTO, or with postea.*

The illegality of the conduct or the revelation of the real facts makes the entire situation illegal *ab initio* (from the beginning), not just from the time the wrongful behavior occurs. A person who enters property under the authority of law but who then by misconduct abuses his or her right to be on the property is considered a trespasser *ab initio*. If a sheriff enters property under the authority of a court order requiring him to seize a valuable painting, but instead he takes an expensive marble sculpture, he would be a trespasser from the beginning. Since the officer abused his authority, a court would presume that he intended from the outset to use that authority as a cloak from under which to enter the property for a wrongful purpose. This theory, used to correct abuses by public officers, has largely fallen into disuse.

ABANDONMENT

The surrender, relinquishment, disclaimer, or cession of property or of rights. Voluntary relinquishment of all right, title, claim, and possession, with the intention of not reclaiming it.

The giving up of a thing absolutely, without reference to any particular person or purpose. For example, vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. The voluntary relinquishment of possession of a thing by its owner with the intention of terminating ownership, but without vesting it in any other person. The relinquishing of all title, possession, or claim, or a virtual, intentional throwing away of property.

Term includes both the intention to abandon and the external act by which the intention is carried into effect. In determining whether someone has abandoned property or rights, the intention is the first and paramount object of inquiry, for there can be no abandonment without the intention to abandon.

Abandonment differs from surrender in that surrender requires an agreement, and also from FORFEITURE, in that forfeiture may be against the intention of the party alleged to have forfeited.

In the case of children, abandonment is the willful forsaking or forgoing of parental duties. Desertion as a legal concept, is similar in this respect, although broader in scope, covering both real and constructive situations; abandonment is generally seen as involving a specific and tangible forsaking or forgoing.

Property That Can Be Abandoned

Various types of personal property—such as personal and household items—contracts, copyrights, inventions, and PATENTS can be abandoned. Certain rights and interests in real property, such as EASEMENTS and leases, may also be abandoned. Suppose a ranch owner, for example, gives a shepherd an easement to use a path on her property so that the sheep can get to a watering hole. The shepherd later sells his flock and moves out of the state, never intending to return. This conduct demonstrates that the shepherd has abandoned the easement, since he stopped using the path and intends never to use it again. Ownership of real property cannot be obtained because someone else abandoned it but may be gained through ADVERSE POSSESSION.

Elements of Abandonment

Two things must occur for property to be abandoned: (1) an act by the owner that clearly

shows that he or she has given up rights to the property; and (2) an intention that demonstrates that the owner has knowingly relinquished control over it.

Some clear action must be taken to indicate that the owner no longer wants his or her property. Any act is sufficient as long as the property is left free and open to anyone who comes along to claim it. Inaction—that is, failure to do something with the property or nonuse of it—is not enough to demonstrate that the owner has relinquished rights to the property, even if such nonuse has gone on for a number of years. A farmer's failure to cultivate his or her land or a quarry owner's failure to take stone from his or her quarry, for example, does not mean that either person has abandoned interest in the property.

A person's intention to abandon his or her property may be established by express language to that effect or it may be implied from the circumstances surrounding the owner's treatment of the property, such as leaving it unguarded in a place easily accessible to the public. The passage of time, although not an element of abandonment, may illustrate a person's intention to abandon his or her property.

Parental Abandonment of Children

Parental abandonment of children is different from other cases of abandonment in that it involves a person rather than property. Abandonment of children is a criminal CAUSE OF ACTION under most state laws. In the civil context, it arises when a court decides to terminate the natural rights of the parent on the grounds of abandonment to allow ADOPTION.

In a criminal context, abandonment of children is defined as actually abandoning a child, or failing to provide necessities of living to a child. In California, for example, a parent is guilty of abandonment if they fail to provide "necessary clothing, food, shelter or medical attendance, or other remedial care for their child." A parent is required to accept their minor child into their home, or provide alternative shelter. Parents in California are also punished for "desertion with intent to abandon." These laws are typical of most states.

In the late 1990s, the issue of baby abandonment in the United States came to a head as a result of several high profile cases. These cases prompted 38 states to pass so-called "safe haven laws." The laws decriminalize baby abandonment by allowing mothers to leave their

unharmful babies at a designated "safe" location such as a hospital, fire station, or licensed child-placing agency. The laws include a time frame, beginning from the baby's birth, in which abandonment may take place; the time frame varies from state to state, ranging from 72 hours up to one year.

In a civil context, abandonment of a child is usually ruled on by a court to facilitate an adoption. State courts employ various guidelines to determine if a child has been abandoned. In an action for adoption on the ground of abandonment, the petitioner generally must establish conduct by the child's natural parent or parents that shows neglect or disregard of parental duties, obligations, or responsibilities. They must also show an intent by the child's parent or parents to permanently avoid parental duties, obligations, or responsibilities. Some jurisdictions require an actual intention of the parents to relinquish their rights to find abandonment, but most allow a finding of abandonment regardless of whether the parents intended to extinguish their rights to the child.

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- Vassilian, Karen. 2001. "A Band-Aid or a Solution? Child Abandonment Laws in California." *McGeorge Law Review* (winter).

CROSS-REFERENCES

Desertion.

ABATEMENT

A reduction, a decrease, or a diminution. The suspension or cessation, in whole or in part, of a continuing charge, such as rent.

With respect to estates, an abatement is a proportional diminution or reduction of the monetary legacies, a disposition of property by will, when the funds or assets out of which such legacies are payable are insufficient to pay them in full. The intention of the testator, when expressed in the will, governs the order in which property will abate. Where the will is silent, abatement occurs in the following order: intestate property, gifts that pass by the residuary clause in the will, general legacies, and specific legacies.

In the context of taxation, an abatement is a decrease in the amount of tax imposed. Abatement of taxes relieves property of its share of the burdens of taxation after the assessment has been made and the levy of the tax has been accomplished.

CROSS-REFERENCES

Taxation; Will.

ABATEMENT OF AN ACTION

An entire overthrow or destruction of a suit so that it is quashed and ended.

The purpose of abatement is to save the time and expense of a trial when the plaintiff's suit cannot be maintained in the form originally presented. After an action abates, the plaintiff is ordinarily given an opportunity to correct errors in his or her PLEADING. If the plaintiff still is unable to allege the facts necessary to state a legal CAUSE OF ACTION, then the action is terminated.

Not every possible reason for dissatisfaction with another person can be heard by a court. When the old COMMON LAW form of action governed the procedure followed by courts (as opposed to state and federal rules of procedure, which now do), only legal wrongs that fit exactly into one of the allowed categories could be pleaded in court. If the defendant believed that the plaintiff's complaint did not fit one of these forms, the defendant could respond with a plea in abatement. A plea in abatement was called a dilatory plea because it delayed the time when the court would reach the merits of the plaintiff's claim, if ever.

The rigid formality of common law pleading became less satisfactory as legal disputes became more complicated. It has been replaced in each state by a procedure that allows the plaintiff to plead facts showing his or her right to legal relief. Modern systems of pleading retain a right for the defendant to seek abatement of the action when the plaintiff is not entitled to be in court. They allow a defendant to object to the court's jurisdiction, the venue of the trial, the sufficiency of process, or of the SERVICE OF PROCESS, the legal sufficiency of the plaintiff's claim, or the failure to include someone who must be a party. A plea in abatement is made either in the defendant's answer or by motion and order—that is, an application to the court for relief and an order that can grant it. Abatement is usually granted in the form of a dis-

missal of cause of action, and now the term *dismissal* is used more often than the term *abatement* for this procedure.

Today, the word *abatement* is most often used for the termination of a lawsuit because of the death of a party. Under the common law, a lawsuit abated automatically whenever a party died. This rule was considered a part of the substance of the law involved and was not merely a question of procedure. Whether the cause of action abated depended on whether or not the lawsuit was considered personal to the parties. For example, contract and property cases were thought to involve issues separate from the parties themselves. They were not personal and did not necessarily abate on the death of a party. Personal injury cases were considered personal, however, and did abate at death. These included claims not only for physical assault or negligent injuries inflicted on the body, but also for other injuries to the person—such as LIBEL, slander, and MALICIOUS PROSECUTION.

Today there are statutes that permit the revival of an action that was pending when a party died. An executor or administrator is substituted for the deceased party and the lawsuit continues. A lawsuit may not be revived unless the underlying cause of action, the ground for the suit, continues to have a legal existence after the party's death. Revival statutes vary from state to state, but today most lawsuits do not abate.

This general rule does not apply to matrimonial actions. A lawsuit for DIVORCE or separation is considered entirely personal and therefore cannot be maintained after the death of a party. Different states do make exceptions to this rule in order to settle certain questions of property ownership. An action for the ANNULMENT of a marriage after the death of an inno-

cent spouse may be revived by the deceased spouse's PERSONAL REPRESENTATIVE if it is clear that the marriage was induced by FRAUD and the perpetrator of the fraud would inherit property to which he or she would otherwise not be entitled.

❖ ABBOTT, BENJAMIN VAUGHN

Benjamin Vaughn Abbott was born June 4, 1830, in Boston, Massachusetts. He graduated from New York University in 1850 and was admitted to the New York bar in 1852.

From 1855 to 1870 Abbott, in collaboration with his brother Austin, wrote a series of law treatises and reports, including *Digest of New York Statutes and Reports* (1860). The series led to *Abbott's New York Digest*, the most recent series of which has been renamed *West's New York Digest 4th*.

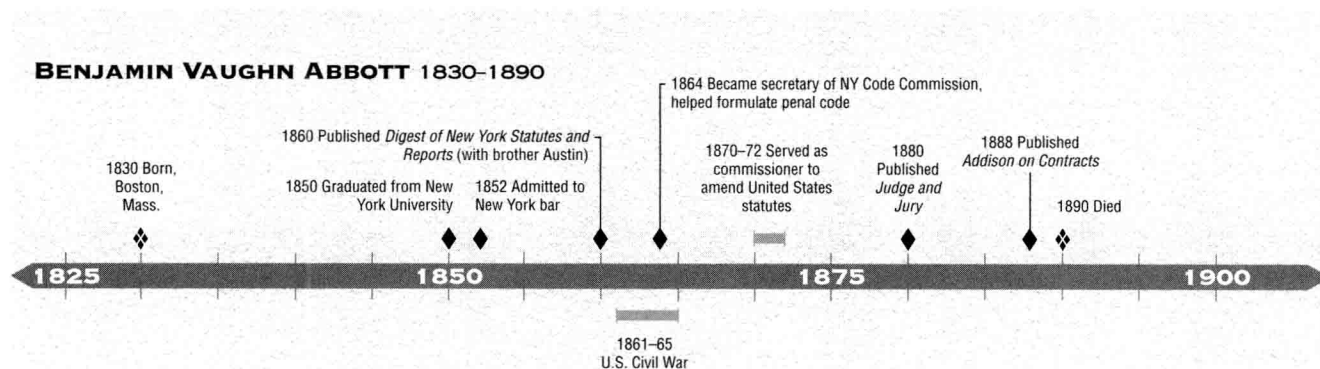
In 1864 Abbott became secretary of the New York Code Commission and was instrumental in the formulation of the New York Penal Code, much of which is still in use today.

From 1870 to 1872 he served as a commissioner to amend the statutes of the United States. Abbott died February 17, 1890, in Brooklyn, New York.

As an author, Abbott wrote several publications, including *Judge and Jury* (1880); *The Travelling Law School* (1884); and *Addison on Contracts* (1888).

ABDICATION

Renunciation of the privileges and prerogatives of an office. The act of a sovereign in renouncing and relinquishing his or her government or throne, so that either the throne is left entirely vacant, or is filled by a successor appointed or elected before-

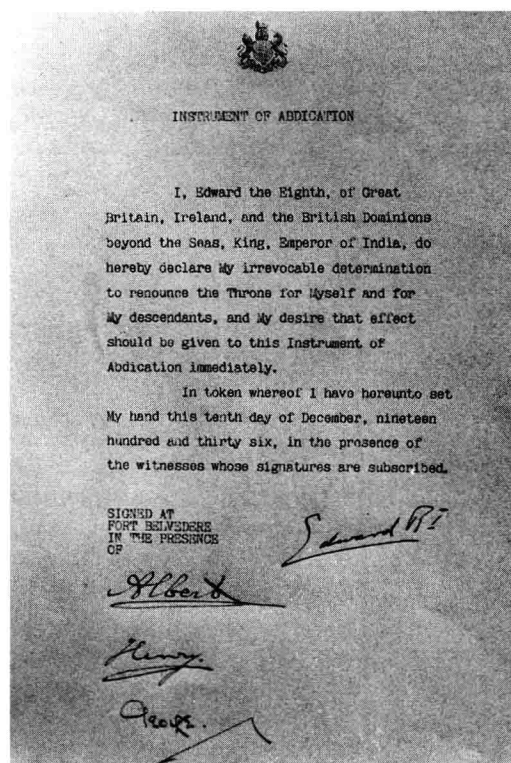


hand. Also, where a magistrate or person in office voluntarily renounces or gives it up before the time of service has expired. It differs from resignation, in that resignation is made by one who has received an office from another and restores it into that person's hands, as an inferior into the hands of a superior; abdication is the relinquishment of an office which has devolved by act of law. It is said to be a renunciation, quitting, and relinquishing, so as to have nothing further to do with a thing, or the doing of such actions as are inconsistent with the holding of it. Voluntary and permanent withdrawal from power by a public official or monarch.

The difference between abdicating a position and resigning one lies primarily in the irrevocability of abdication. Once an office or throne is abdicated, a return is not legally possible. Unlike resignation, abdication is not a matter of the relinquishment of a position to an employer or a superior. Instead, it is the absolute and final renunciation of an office created specifically by an act of law. After an abdication, the office remains vacant until a successor is named by appointment or election.

An early example of royal abdication occurred in 305 A.D., when the Roman emperor Diocletian withdrew from power after suffering a serious illness. Another sovereign, King Louis Philippe of France (the Citizen King), abdicated on February 24, 1848, because of public hostility toward the monarchy.

Perhaps the most famous abdication of power occurred on December 11, 1936, when England's King Edward VIII (1894–1972) renounced his throne in order to marry Wallis Warfield Simpson (1896–1986). Simpson was a twice-divorced socialite whose rocky marital history and American citizenship made her an unacceptable choice as wife of the British monarch. The affair between Edward and Simpson created an international scandal because it began well before her second **DIVORCE** was finalized. Edward's ministers pleaded with him to sever his relationship with the woman, whom his mother, Queen Mary, dismissed as "the American adventuress." Edward could not remain king and head of the Church of England if he married Simpson, because of the church's opposition to divorce. Unhappy with many of his royal duties and transfixed by Simpson, Edward chose to renounce the monarchy and marry her.



The abdication document signed on December 10, 1936, by King Edward VIII and his brothers, Albert, Henry, and George.

AP/WIDE WORLD
PHOTOS

On December 11, 1936, Edward announced his decision at Fort Belvidere, his private estate six miles from Windsor Castle. There he signed an instrument of abdication and conducted a farewell radio broadcast in which he told his subjects that he relinquished the throne for "the woman I love." The 42-year-old royal, who had ascended the throne on January 20, 1936, upon the death of his father, King George V, was succeeded by his younger brother, the duke of York, who became King George VI, father of Queen Elizabeth II.

Edward and Simpson were married in Paris on June 3, 1937. Afterward, the former sovereign and his wife were addressed as the duke and duchess of Windsor. Except for a period during **WORLD WAR II** spent in colonial Bahamas, the couple resided in royal exile in Paris for most of their nearly 35-year marriage.

FURTHER READINGS

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ABDUCTION

The act of restraining another through the use or threat of DEADLY FORCE or through fraudulent persuasion. The requisite restraint generally requires that the abductor intend to prevent the liberation of the abductee. Some states require that the abductee be a minor or that the abductor intend to subject the abductee to prostitution or illicit sexual activity.

CROSS-REFERENCES

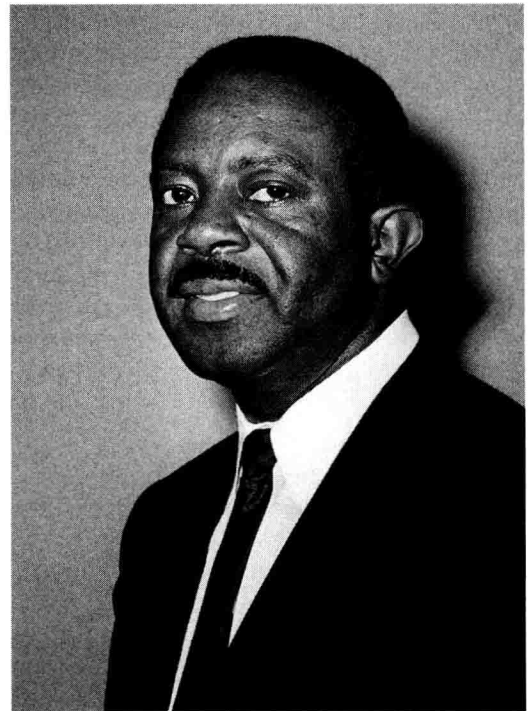
Kidnapping.

❖ **ABERNATHY, RALPH DAVID**

In the long battle for CIVIL RIGHTS, few leaders have had as an important a role as Ralph David Abernathy. From the late 1950s until 1968, Abernathy was the right-hand man of MARTIN LUTHER KING JR. Together in 1957 they founded the SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE (SCLC), the organization chiefly responsible for the nonviolent protest movement whose gains over the next decade included major legal and social reforms for black Americans. Abernathy often shared a place next to King in meetings, marches, and jail, yet despite his considerable contributions to the CIVIL RIGHTS MOVEMENT, he labored largely in King's shadow. Later becoming SCLC president, he watched the transformation of the movement as his influence weakened and his politics changed, until controversy ultimately divided him from its mainstream.

Born on March 11, 1926, in Marengo County, Alabama, Abernathy was the grandson of a slave. His family members were successful farmers, and his father's leadership in the county's black community inspired him. Upon graduating from Linden Academy, he served in the army in WORLD WAR II. He was ordained as a Baptist minister in 1948. He earned a B.A. in mathematics from Alabama State College in 1950, an M.A. in sociology from Atlanta University in 1951, and later a law degree from Allen University in 1960.

The defining moment in Abernathy's life was meeting King. As a student in Atlanta, he had heard King preach in church. From there, they began a friendship that would shape both men's futures. In 1955, while both were pastors in Montgomery, Alabama, they began the first of many local protest actions against RACIAL DISCRIMINATION. They organized a boycott of city



Ralph Abernathy. BETTMANN/CORBIS

"I DON'T KNOW
WHAT THE FUTURE
MAY HOLD, BUT I
KNOW WHO HOLDS
THE FUTURE."

—RALPH
ABERNATHY

buses by black passengers that led to the successful desegregation of local bus lines one year later. To build on this triumph, the pastors called a meeting of black leaders from ten southern states in January 1957 at an Atlanta church. This meeting marked the founding of the SCLC, which was devoted to the goal of furthering civil rights throughout the south. King was appointed the group's president, Abernathy its secretary-treasurer. The civil rights movement had begun.

Although the SCLC had committed itself to nonviolent protest, the forces they opposed were far from gun-shy. Segregationists bombed Abernathy's home and church. As opposition from individuals as well as government and law enforcement mounted, Abernathy continued to stress nonviolence. He said, "violence is the weapon of the weak and nonviolence is the weapon of the strong. It's the job of the state troopers to use mace on us. It's our job to keep marching. It's their job to put us in jail. It's our job to be in jail."

For nearly a decade, this philosophy was a clarion call answered by thousands. Through sit-down strikes, marches, arrests and jailings, and

frequently at great personal danger, King and Abernathy led a mass of nonviolent protesters across the south, working together to devise strategy and put it into action. The enactment of federal civil rights legislation in 1964 marked a major success. But tragedy followed with King's assassination in May 1968, after which Abernathy replaced him as SCLC president. He now added a new aggressiveness to the group's goals, notably organizing a week-long occupation of Potomac Park in Washington, D.C., by five thousand impoverished tent-dwellers in what was called the Poor People's Campaign. This effort to dramatize poverty was quickly crushed by federal law enforcement.

By the end of the 1960s, Abernathy's influence was in decline. The civil rights movement had splintered as younger, more militant members gravitated toward groups such as the **BLACK PANTHERS** and the Committee on Racial Equality (CORE). In 1977, Abernathy was forced from leadership of the SCLC amid a feud with King's widow, Coretta Scott King, and made an unsuccessful bid for Congress. In 1980, he supported the presidential campaign of conservative Republican **RONALD REAGAN**, which further divided him from former friends and associates. References to Martin Luther King Jr.'s marital infidelities in Abernathy's 1989 memoir *And the Walls Came Tumbling Down* provoked more criticism. Politically and personally isolated, Abernathy died one year later of a heart attack on April 17, 1990, at the age of 64. In death, however, the criticism faded and was replaced by praise for his contributions to civil rights.

CROSS-REFERENCES

Civil Rights Movement; King, Martin Luther, Jr.; Southern Christian Leadership Conference.

ABET

To encourage or incite another to commit a crime. This word is usually applied to aiding in the commission of a crime. To abet another to commit a murder is to command, procure, counsel, encourage, induce, or assist. To facilitate the commission of a crime, promote its accomplishment, or help in advancing or bringing it about.

In relation to charge of aiding and abetting, term includes knowledge of the perpetrator's wrongful purpose, and encouragement, promotion or counsel of another in the commission of the criminal offense.

A French word, abeter—to bait or excite an animal.

For example, the manager of a jewelry store fails to turn on the store's silent alarm on the night she knows her cousin plans to rob the store. Her conduct is that of abetting the **ROBBERY**. If, however, she merely forgot to turn on the alarm, she would not have abetted the crime.

The word *abet* is most commonly used as part of the comprehensive phrase aid and abet.

ABETTOR

One who commands, advises, instigates, or encourages another to commit a crime. A person who, being present, incites another to commit a crime, and thus becomes a principal. To be an abettor, the accused must have instigated or advised the commission of a crime or been present for the purpose of assisting in its commission; he or she must share criminal intent with which the crime was committed.

A person who lends a friend a car for use in a **ROBBERY** is an abettor even though he or she is not present when the robbery takes place. An abettor is not the chief actor, the principal, in the

