

WEST'S
ENCYCLOPEDIA
of
AMERICAN
LAW

2ND EDITION

VOLUME 5



FRI TO JAM

WEST'S ENCYCLOPEDIA *of* AMERICAN LAW

2ND EDITION

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FRI TO JAM

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West's Encyclopedia of American Law, 2nd Edition

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WEST'S
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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.



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 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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F (cont.)

❖ FRIEDAN, BETTY NAOMI GOLDSTEIN

In 1963, author Betty Naomi Goldstein Friedan's first book, *The Feminine Mystique*, launched the feminist movement, which eventually expanded the lifestyle choices for U.S. women. By the 1990s, she had also become a spokesperson for older and economically disadvantaged people and was recognized and honored by women outside the United States for her global leadership and influence on women's issues.

She was born Elizabeth Naomi Goldstein on February 4, 1921, in Peoria, Illinois. Her father, Harry Goldstein, was a successful storeowner who emigrated from Russia. Her mother, Miriam Horowitz Goldstein, graduated from Bradley Polytechnic Institute and wrote society news as a Peoria newspaper journalist. Friedan entered Smith College in 1939, majored in psychology, and served as editor of the college newspaper. After graduating summa cum laude in 1942, she interviewed for the only type of job available to women journalists at the time: researcher for a major U.S. news magazine. But the position of researcher amounted to doing all the work while someone else received the byline, and Friedan was not interested in that. Instead, she wrote for a Greenwich Village news agency, covering the labor movement.

When WORLD WAR II ended, Friedan lost her job to a returning veteran. (Returning veterans were guaranteed their prewar jobs.) Friedan then thought of going to medical school, a choice very

few women could pursue. But instead, she followed the traditional path, marrying returning veteran Carl Friedan in 1947 and starting a family. After her first child was born, she worked for another newspaper, but was fired when she became pregnant with her second child. She protested to the newspaper guild, as no one had ever questioned her ability to perform her job, but was told that losing her job was "her fault" because she was pregnant. At that time, the term *sex discrimination* did not exist.

While she was a mother and housewife living in suburban New York, Friedan wrote articles for women's magazines such as *McCall's* and *Ladies' Home Journal* on a freelance basis. Tapped by *McCall's* to report on the state of the alumnae of the Smith class of 1942 as they returned for their fifteenth reunion in 1957, Friedan visited the campus and was struck by the students' lack of interest in intellectual pursuits contrasted greatly with Friedan's perception of her Smith classmates of the 1930s and 1940s.

Extensive research over the next several years brought Friedan to the conclusion that women's magazines were at fault because they defined women solely in relationship to their husbands and children. This had not always been the case; the magazines had evolved in the postwar years from promoters of women's independence into paeans to consumerism, bent on keeping U.S. housewives in the home by selling them more and more household products.

"MEN WEREN'T
REALLY THE
ENEMY—THEY
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MADE THEM FEEL
UNNECESSARILY
INADEQUATE WHEN
THERE WERE NO
BEARS TO KILL."
—BETTY FRIEDAN

Betty Friedan.

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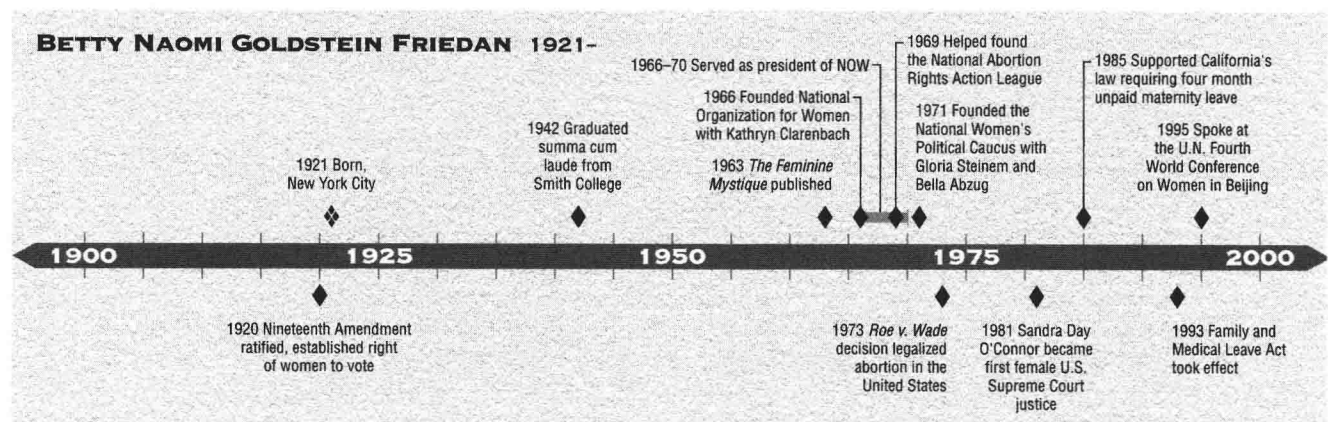


Not surprisingly, Friedan was unable to get her work on this issue published in an acceptable format by the women's magazines she was criticizing. Her report was published in book form in 1963 as *The Feminine Mystique*, in which she chronicled the dissatisfaction of suburban housewives, dubbing it "the problem with no name." The book struck a common chord among U.S. women, who recognized themselves in the women she described in its pages. For the first time since the women's suffrage movement ended successfully with the passage of the NINETEENTH AMENDMENT granting women the right to vote, women gathered together on a large scale to work for equal rights with men, a concept that at the time was nothing less than revolutionary.

In 1966, with Kathryn Clarenbach, Friedan cofounded the NATIONAL ORGANIZATION FOR WOMEN (NOW). NOW's original statement of purpose was written by Friedan: "Women want feminism to take the actions needed to bring women into the mainstream of American society, now; full equality for women, in fully equal partnership with men." Friedan served as NOW's president until 1970. Under her leadership, NOW propelled the women's movement from middle-class suburbia to nationwide activism. Friedan also helped organize the National Abortion Rights Action League (now NARAL PRO-CHOICE AMERICA) in 1969, and the National Women's Political Caucus in 1971. All three organizations were still active participants in U.S. politics and culture into the 2000s.

On August 26, 1970, the fiftieth anniversary of the ratification of the Nineteenth Amendment, the Women's Strike for Equality took place. Friedan's brainchild, this WOMEN'S RIGHTS demonstration was the largest that had ever occurred in the United States. Thousands of U.S. women marched in the streets for a day rather than working as housewives, secretaries, and waitresses, to show how poorly society would fare without women's labor and to demand three things for women: equal opportunity in employment and education, 24-hour CHILD CARE centers, and legalized abortion. Although the media at the time portrayed the strike as frivolous or a result of female hysteria, their compulsion to pay the event any attention at all was a step forward for the women's movement.

By the 1980s, it was apparent that Friedan's feminism differed from that of other U.S. feminists such as GLORIA STEINEM and KATE



MILLETT. When other feminist leaders were saying women could "have it all," meaning a successful career, fulfilling marriage, and happy children, Friedan, who had been divorced from her husband since 1969, wrote articles such as "Being 'Superwoman' Is Not the Way to Go" (*Woman's Day*, Oct. 1981) and "Feminism's Next Step" (*New York Times Magazine*, July 1981). Rather than focusing on sexual violence and abortion rights, Friedan's writings emphasized the necessity of working with other groups to improve the plight of children, members of minorities, and economically disadvantaged people.

In her 1981 book *The Second Stage*, Friedan called for an open discussion of traditional feminism's denial of the importance of family and of women's needs to nurture and be nurtured. She predicted that the women's movement would die out if feminists did not take the issues of children and men more seriously. It was not surprising that this position was roundly criticized as antifeminist by many of Friedan's contemporaries.

Another position that was at odds with NOW surfaced in 1986 when she declared her support for a California law requiring employers to grant up to four months of unpaid leave for women who were disabled by pregnancy or childbirth. The 1980 law (West's Ann. Cal. Gov. Code § 12945) was the subject of a U.S. Supreme Court case, *California Federal Savings and Loan Ass'n v. Guerra*, 479 U.S. 272, 107 S. Ct. 683, 93 L. Ed. 2d 613 (1987). NOW opposed the law as a dangerous singling out of women for special treatment; Friedan called it outrageous that feminists would side with employers who were trying to evade offering women important and needed benefits. These opinions, among other things, caused Friedan to lose support within the women's movement as well as an audience in the media.

Another reason for Friedan's fall from media attention was her style, which, like her philosophy, also differed from that of other feminist spokespersons, most notably Steinem. Whereas Steinem was a favorite of the media and actively courted their attention, Friedan did not seek out media attention and often railed against what she saw as the stereotyping of women. Her stormy relationship with the media contributed to an image of her as old, unattractive, and out of touch with modern feminism.

By 1990, although Friedan was moving away from what was considered mainstream feminism, she had earned a permanent place in history. That year, *Life* magazine named her one of the one hundred most important people of the twentieth century.

In September 1995, a new generation of journalists seemed surprised at Friedan's extensive international influence, which was demonstrated at the Non-Governmental Organization Forum on Women, an unofficial gathering at the U.N. Fourth World Conference on Women. Friedan attended the forum as one of only a few women who had participated in all four U.N. women's conferences since the first one was held in Mexico City in 1975. Women of all nationalities and ages sought her out, listened to her speeches, and attended her workshops.

Friedan's focus was to move the women's movement away from conflict with men and toward economic policies that benefited both sexes, such as shorter workweeks and higher minimum wages. As she saw it, policies that were pro-women alone were portrayed in the media and by opponents as anti-family and anti-men. Poor economic conditions and shrinking job opportunities often resulted in the treatment of women's developing economic power as a scapegoat for difficulties suffered by men or families. In Friedan's opinion, this unnecessary tension between men and women diverted attention from the issues that really threatened the well-being of women and families: poverty, unemployment, lack of education and HEALTH CARE, and crime. To combat these problems, she supported a proposal put forth by distinguished academics and public policy researchers that would provide low-income parents, not just women on WELFARE, with HEALTH INSURANCE and child care.

Friedan's focus on more gender-neutral policies was an outgrowth of her research into gerontology and the issues facing aging people. The 1993 publication of *The Fountain of Age* had put Friedan back in the media spotlight as the spokesperson of her generation, an advocate for freeing older people from damaging stereotypes, just as she had previously done for women. Friedan brought to her advocacy for older people her philosophy of cooperation, developed during her decades of work in the women's movement. A delegate to the Fourth White House Conference on Aging in 1995, she fought

against the polarization of young and older U.S. citizens that some politicians encouraged in order to increase their political power. She eschewed the idea of forced retirement, instead arguing for older workers to voluntarily and gradually cut down their work schedules and to explore job sharing and consultant work. At the same time, Friedan vowed to save programs such as SOCIAL SECURITY, MEDICARE, and MEDICAID, which were under attack by fiscal conservatives. With that full plate of issues, it was clear that she was not ready to stop her advocacy work.

In the late 1990s, Friedan continued to speak at schools and other forums around the country and throughout the world. She wrote for a number of publications and taught at several schools, including the University of California, New York University, and Mount Vernon College in Washington, D.C., where she was the Distinguished Professor of Social Evolution. She has also served as an adjunct scholar at the Smithsonian Institution's Wilson International Center for Scholars. In 2000, she published her autobiography, *Life So Far*.

FURTHER READINGS

- Evans, Sara. 1980. *Personal Politics: The Roots of Women's Liberation in the Civil Rights Movement and the New Left*. New York: Random House.
- Horowitz, Daniel. 2000. *Betty Friedan and the Making of "The Feminine Mystique": The American Left, the Cold War, and Modern Feminism*. Boston: Univ. of Massachusetts Press.

CROSS-REFERENCES

Age Discrimination; Ireland, Patricia; Sex Discrimination.

FRIEND OF THE COURT

A person who has a strong interest in a matter that is the subject of a lawsuit in which he or she is not a party.

A friend of the court may be given permission by the court to file a written statement of his or her views on the subject, ostensibly to bolster the case of one party but even more to persuade the court to adopt the party's views. The Latin translation, *AMICUS CURIAE*, is used most often for a friend of the court; the written argument that he or she files may be called an *amicus curiae* brief.

FRIENDLY FIRE

Fire burning in a place where it was intended to burn, although damages may result. In a military

conflict, the discharge of weapons against one's own troops.

A fire burning in a fireplace is regarded as a friendly fire, in spite of the fact that extensive smoke damage might result therefrom. Ordinarily, when an individual purchases fire insurance, the coverage does not extend to damages resulting from a friendly fire but only to loss resulting from an uncontrollable hostile fire.

❖ FRIENDLY, HENRY JACOB

Henry Jacob Friendly served for 27 years on the U.S. Court of Appeals for the Second Circuit, where he won a wide reputation for his scholarly, well-crafted opinions.

Friendly was born July 3, 1903, in Elmira, New York. He graduated *summa cum laude* from Harvard College in 1923 and from Harvard Law School in 1927. In law school he studied under Professor FELIX FRANKFURTER, later a U.S. Supreme Court Justice, who recommended Friendly for a clerkship with Supreme Court Justice LOUIS D. BRANDEIS. After his clerkship Friendly entered private practice where he specialized in railroad reorganizations and corporate law. He later became a vice president and general counsel for Pan American Airways.

In 1959, President DWIGHT D. EISENHOWER appointed Friendly to the U.S. Court of Appeals for the Second Circuit, where he remained until his death. Although Friendly was a semi-retired senior judge during his last years on the court, he remained an active participant and was involved in more than one hundred cases each year. He served as chief judge of the court from 1971 to 1973. In 1974, Friendly took on the additional duties of the presiding judge of the Special Railroad Court, which was established to deal with the reorganization of rail service in the Northeast and the Midwest that resulted from the *BANKRUPTCY* of the Penn Central Railroad and the former Conrail.

Friendly wrote nearly a thousand judicial opinions as well as a number of notes and articles on a wide range of issues, but he is probably best known for his work in the areas of diversity jurisdiction, *CRIMINAL PROCEDURE*, and *SECURITIES LAW*. Diversity jurisdiction refers to the jurisdiction that federal courts have over lawsuits in which the plaintiff and the defendant are residents of different states. Friendly first became interested in the subject when he was in

law school, and one of his first articles was "The Historic Basis of Diversity Jurisdiction," 41 *Harvard Law Review*, 1928. Later, after the U.S. Supreme Court had established a new precedent for cases involving diversity jurisdiction (*Erie Railroad Co. v. Tompkins*, 304 U.S. 64, 58 S. Ct. 817 82 L. Ed. 1188 [1938]). Friendly wrote, "In Praise of *Erie*—and of the New Federal Common Law," 39 *New York University Law Review*, 1964. A few years later he provided an overview of federal jurisdiction in *Federal Jurisdiction: A General View* (1973).

During the 1960s Friendly became involved in the debate over changes in criminal procedure that were occurring as the U.S. Supreme Court, in a series of decisions, held that many of the rights guaranteed in the BILL OF RIGHTS applied to the states. In "The Bill of Rights as a Code of Criminal Procedure," *Benchmarks* (1967), Friendly expressed doubts about some of the Court's decisions and worried that they would cut off debate in Congress and the state legislatures that might have proved fruitful in developing new solutions to the problems of criminal procedure. He also criticized the decision in *MIRANDA V. ARIZONA*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966), on the ground that it was predicated on the unfounded assumption that all CUSTODIAL INTERROGATIONS are inherently coercive.

In the area of securities law, Friendly wrote more than one hundred opinions, several of them in the relatively new field of transnational law, which deals with corporations that have activities in several countries. He was also notably unsympathetic toward white-collar criminals who perpetrated financial frauds; in *United States v. Benjamin*, 328 F.2d 854 (1954), he observed that "[i]n our complex society the

accountant's certificate and the lawyer's opinion can be instruments for inflicting pecuniary loss more potent than the chisel or the crowbar."

Friendly's colleagues respected him for his scholarship, his reasoning, and his self-restraint. In 1977, he received the Presidential Medal of Freedom from President GERALD R. FORD for having brought "a brilliance and a sense of precision to American Jurisprudence, sharpening its focus and strengthening its commitment to the high goal of equal and exact justice for every American citizen." As another federal jurist, JOHN MINOR WISDOM, put it, Friendly was "unsurpassed as a judge—in the power of his reasoning, the depth of his knowledge of the law, and his balanced judgment in decision-making."

In 1985, Sophie Stern, Friendly's wife of 55 years, died. Despondent over her death and plagued by failing eyesight, Friendly took his own life in his New York City apartment on March 11, 1986.

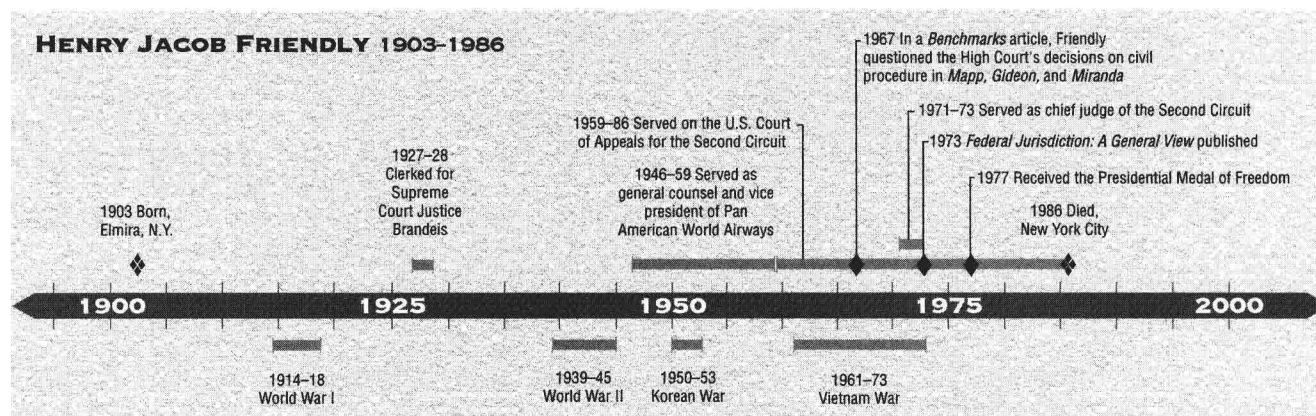
FURTHER READINGS

Norman, Michael. 1986. "Henry J. Friendly, Federal Judge in Court of Appeals, Is Dead at 82." *New York Times* (March 12).

FRIENDLY SUIT

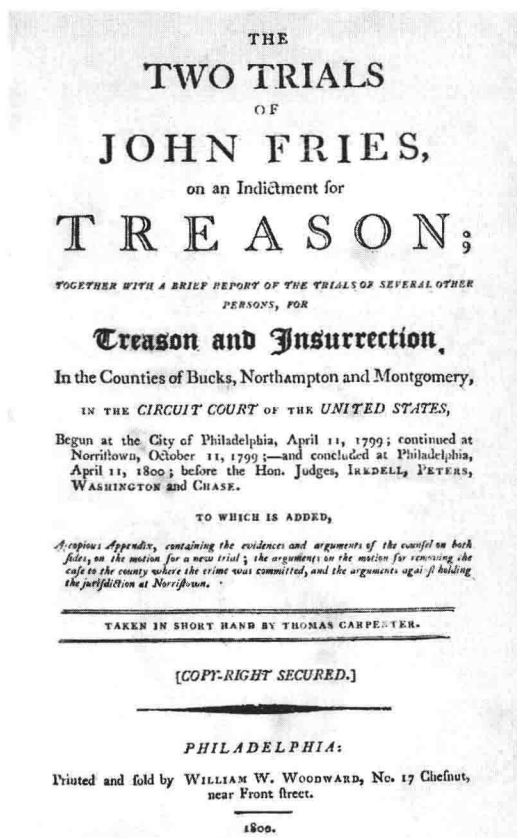
A lawsuit brought by an executor or administrator of the estate of a deceased person in the name of a creditor as if that creditor had initiated the action. The executor or administrator brings the suit against himself or herself in order to compel the creditors to take an equal distribution of the assets of the estate. An action brought by parties who agree to submit some doubtful question to the court in order to obtain an opinion on that issue.

"THE QUESTION OF HOW JUDGES GO ABOUT THE BUSINESS OF JUDGING CONTINUES TO HOLD INTEREST—ALTHOUGH APPARENTLY MORE FOR LAWYERS AND LAW PROFESSORS THAN FOR JUDGES."
—HENRY FRIENDLY



In 1800 William W. Woodward, a Philadelphia publisher, used shorthand notes taken by Thomas Carpenter to produce a report of John Fries's two trials for treason.

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FRIES'S REBELLION

John Fries was an auctioneer from rural Pennsylvania who led a small group of tax protesters in what came to be known as Fries's Rebellion. He was tried and convicted of TREASON but was eventually pardoned.

Fries served as a captain in the Continental Army during the WHISKEY REBELLION of 1794. He then returned to Pennsylvania to resume his life there. In 1798, Congress authorized the collection of property taxes to replenish funds depleted by the Whiskey Rebellion and to finance an anticipated war with France. Revenue officers were sent to all parts of the United States to assess the value of homes, land, and slaves for taxation. The tax assessment was well publicized and understood in urban areas, where most residents paid little attention to the assessors' activities. However, in the rural regions of northeastern Pennsylvania, where many residents spoke and read only German, many people were unaware of Congress's action and were resentful and fearful of the inquisitive assessors. They responded by attacking the revenue officers, both verbally and physically. Their treatment of the assessors

was dubbed the Hot Water War, after an incident in which a woman dumped a bucket of hot water on a revenue agent.

The Pennsylvanians' protests escalated until a group of residents took several revenue officers captive and held them until they had satisfactorily explained their actions. Upon their release, the officers arrested twenty-three men for insurrection. Fries and a group of men who believed that the property tax was a deprivation of liberty took up arms and liberated their detained comrades. When the group resisted orders from President JOHN ADAMS to disperse and to allow the federal officers to carry out their duties, Fries and its other leaders were arrested for treason.

Fries was brought to trial in 1799, before Judge Richard Peters, of the Pennsylvania District Court, and Justice JAMES IREDELL, of the Supreme Court. Fries's defense counsel argued that their client's offense was a simple protest that perhaps could be characterized as SEDITION, but certainly did not rise to the level of treason, a capital crime. They contended that, in a free republic, the treason charge should be reserved for the most extreme cases of armed attempt to overthrow the government.

Defense counsel's pleas for freedom of expression of political sentiment did not convince members of the jury, who were probably influenced by Iredell's and Peters's instructions. In those instructions, Peters equated opposing or preventing the implementation of a law with treason, and Iredell agreed with him. Fries was found guilty, but was granted a new trial when the court learned that before the trial began, one juror had expressed a belief in his guilt.

Fries's second trial took place in April 1800, before Justice SAMUEL CHASE, of the Supreme Court, and Judge Peters. Determined to expedite the second trial, Chase took the unprecedented step of preparing an opinion on the law of the case. Before the trial began, he distributed copies of his summary to the defense attorneys, the district attorney, and the jury. Chase made it clear that his opinion represented the court's view of the law of treason and that the defense would not be permitted to present lengthy arguments to the contrary, as it had in the first trial.

Outraged that the court had prejudged their client's case, Fries's attorneys withdrew from the case. Fries chose to proceed to trial without benefit of LEGAL REPRESENTATION. He was again found guilty and sentenced to death by hanging.

However, after studying the case, President Adams pardoned him and the other insurgents. Soon after his pardon, Fries was promoted from captain to lieutenant colonel in the Montgomery County, Pennsylvania, militia.

Justice Chase's conduct in Fries's second trial was harshly criticized as indirectly depriving Fries of counsel. The justice's actions were used against him in 1805, in an unsuccessful IMPEACHMENT proceeding.

FURTHER READINGS

Elsmere, Jane Shaffer. 1979. "The Trials of John Fries." *Pennsylvania Magazine of History and Biography* 103 (October).

Presser, Stephen. 1978. "A Tale of Two Judges..." *Northwestern University Law Review* 73 (March/April).

CROSS-REFERENCES

Whiskey Rebellion.

FRISK

A term used in CRIMINAL LAW to refer to the superficial running of the hands over the body of an individual by a law enforcement agent or official in order to determine whether such individual is holding an illegal object, such as a weapon or narcotics. A frisk is distinguishable from a search, which is a more extensive examination of an individual.

CROSS-REFERENCES

Stop and Frisk.

FRIVOLOUS

Of minimal importance; legally worthless.

A *frivolous suit* is one without any legal merit. In some cases, such an action might be brought in bad faith for the purpose of harassing the defendant. In such a case, the individual bringing the frivolous suit might be liable for damages for MALICIOUS PROSECUTION.

A *frivolous appeal* is one that is completely lacking merit, since no reviewable question has been raised therein.

FROLIC

Activities performed by an employee during working hours that are not considered to be in the course of his or her employment, since they are for the employee's personal purposes only.

The doctrine of RESPONDEAT SUPERIOR makes a principal liable for the TORTS of his or

her agent occurring during the course of employment. This is based on the concept that a principal has control over his or her agent's behavior. If an agent was hired to drive from point A to point B, and, through reckless driving, hit a pedestrian along the way, the principal would ordinarily be held liable. If, however, the agent was engaged in frolic, the principal would not be liable. This might occur, for example, if an employee were hired to transport goods from point A to point B and made several detours along the way for personal reasons. If the employee became involved in an accident while on a frolic, the employer would not be liable unless it could be established that he or she was negligent in the hiring or supervision of the employee.

FRONTIERO V. RICHARDSON

The fight to end gender discrimination in the U.S. began in the nineteenth century with the women's suffrage movement and the enactment of laws that protected the property that women brought into marriages. By the 1960s, the focus had shifted to ending pay and benefit discrimination based on gender. By the early 1970s, Congress had passed the EQUAL RIGHTS AMENDMENT (ERA) of the U.S. Constitution, which proclaimed equality between the genders. Ratification appeared close by 1973, as 38 states had ratified the ERA. The court system also became an arena for the issue of gender discrimination. The U.S. Supreme Court began to consider cases of gender discrimination but hesitated to place gender in the same category as race or ethnicity as a SUSPECT CLASSIFICATION inviting the most rigorous constitutional review. However, a plurality of the court endorsed gender as a suspect classification in *Frontiero v. Richardson*, 411 U.S. 677, 93 S. Ct. 1764, 36 L. Ed.2d 583 (1973). This important case pushed the Court, and society in general, to recognize the legal disabilities that women had lived with for centuries. Though not a landmark decision, *Frontiero* signaled the willingness of the high court to take gender issues seriously.

The facts of the case illustrated the disparate treatment built into U.S. society concerning the role of women. Sharron Frontiero was a U.S. Air Force officer who was married to Joseph Frontiero, a full-time student at a college near the Alabama base where Sharron was stationed. Congress had passed a law that provided fringe