

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

---

## INTERNATIONAL LAW IN THE U.S. SUPREME COURT

From its earliest decisions in the 1790s, the U.S. Supreme Court has used international law to help resolve major legal controversies. This book presents a comprehensive account of the Supreme Court's use of international law from the Court's inception to the present day. Addressing treaties, the direct application of customary international law, and the use of international law as an interpretive tool, this book examines all the cases or lines of cases in which international law has played a material role, showing how the Court's treatment of international law both changed and remained consistent over the period. Although there was substantial continuity in the Supreme Court's international law doctrine through the end of the nineteenth century, the past century has been a time of tremendous doctrinal change. Few aspects of the Court's international law doctrine remain the same in the twenty-first century as they were two hundred years ago.

David L. Sloss is Professor of Law at Santa Clara University School of Law, where he serves as Director of the Center for Global Law and Policy. He is the editor of *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study* (2009). He has published numerous articles on the history of U.S. foreign affairs law and the judicial enforcement of treaties in U.S. courts.

Michael D. Ramsey is Professor of Law at the University of San Diego School of Law. He is the author of *The Constitution's Text in Foreign Affairs* (2007) and of numerous articles examining the foreign affairs aspects of the U.S. Constitution in the Founding era.

William S. Dodge is Professor of Law at the University of California, Hastings College of the Law. He is coauthor (with Detlev Vagts and Harold Koh) of *Transnational Business Problems* (4th ed. 2008) and has written extensively on the history of international law in American courts and on statutory interpretation in the international context.

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

# International Law in the U.S. Supreme Court

CONTINUITY AND CHANGE

**David L. Sloss**

Santa Clara University School of Law

**Michael D. Ramsey**

University of San Diego School of Law

**William S. Dodge**

University of California,  
Hastings College of the Law



**CAMBRIDGE**  
UNIVERSITY PRESS

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

CAMBRIDGE UNIVERSITY PRESS

Cambridge, New York, Melbourne, Madrid, Cape Town,  
Singapore, São Paulo, Delhi, Tokyo, Mexico City

Cambridge University Press

32 Avenue of the Americas, New York, NY 10013-2473, USA

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9780521119566](http://www.cambridge.org/9780521119566)

© Cambridge University Press 2011

This publication is in copyright. Subject to statutory exception  
and to the provisions of relevant collective licensing agreements,  
no reproduction of any part may take place without the written  
permission of Cambridge University Press.

First published 2011

Printed in the United States of America

*A catalog record for this publication is available from the British Library.*

*Library of Congress Cataloging in Publication data*

International law in the U.S. Supreme Court : continuity and change / [edited by] David L. Sloss,  
Michael D. Ramsey, William S. Dodge.

p. cm

Includes bibliographical references and index.

ISBN 978-0-521-11956-6

1. United States. Supreme Court. 2. Law – United States – Foreign influences – Cases.

3. International law and municipal law – United States – Cases. 4. International law – United  
States – Cases. I. Sloss, David (David L.), 1957– II. Ramsey, Michael D., 1964–

III. Dodge, William S., 1964–

KF358.I58 2011

341.0973–dc22 2010046526

ISBN 978-0-521-11956-6 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external  
or third-party Internet Web sites referred to in this publication and does not guarantee that any content  
on such Web sites is, or will remain, accurate or appropriate.

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

---

*We dedicate this book to the memory of Louis Henkin (1917–2010),  
who pioneered modern foreign affairs law scholarship.*

Contents

<i>List of Contributors</i>	<i>page xi</i>
<i>Table of Cases</i>	xix
<i>Acknowledgments</i>	xxxv
<b>Introduction . . . . .</b>	<b>1</b>
<b>PART I FROM THE FOUNDING TO THE CIVIL WAR</b>	
<b>1 International Law in the Supreme Court to 1860 . . . . .</b>	<b>7</b>
<i>David L. Sloss, Michael D. Ramsey, and William S. Dodge</i>	
<b>PART II FROM THE CIVIL WAR TO THE TURN OF THE CENTURY</b>	
<b>2 Treaties in the Supreme Court, 1861–1900 . . . . .</b>	<b>55</b>
<i>Duncan B. Hollis</i>	
<b>3 Customary International Law in the Supreme Court, 1861–1900 . . . . .</b>	<b>89</b>
<i>David J. Bederman</i>	
<b>4 International Law as an Interpretive Tool in the Supreme Court, 1861–1900 . . . . .</b>	<b>124</b>
<i>Thomas H. Lee and David L. Sloss</i>	
<b>5 A Social History of International Law: Historical Commentary, 1861–1900 . . . . .</b>	<b>164</b>
<i>John Fabian Witt</i>	
<b>PART III FROM THE TURN OF THE CENTURY TO WORLD WAR II</b>	
<b>6 Treaties in the Supreme Court, 1901–1945 . . . . .</b>	<b>191</b>
<i>Michael P. Van Alstine</i>	
<b>7 Customary International Law in the Supreme Court, 1901–1945 . . . . .</b>	<b>225</b>
<i>Michael D. Ramsey</i>	
<b>8 International Law as an Interpretive Tool in the Supreme Court, 1901–1945 . .</b>	<b>257</b>
<i>Roger P. Alford</i>	

viii	Contents
9	Varieties and Complexities of Doctrinal Change: Historical Commentary, 1901–1945 . . . . . 285 <i>Edward A. Purcell, Jr.</i>
PART IV FROM WORLD WAR II TO THE NEW MILLENNIUM	
10	Treaties in the Supreme Court, 1946–2000 . . . . . 317 <i>Paul B. Stephan</i>
11	Customary International Law in the Supreme Court, 1946–2000 . . . . . 353 <i>William S. Dodge</i>
12	International Law as an Interpretive Tool in the Supreme Court, 1946–2000 . . 380 <i>Melissa A. Waters</i>
13	Global Power in an Age of Rights: Historical Commentary, 1946–2000 . . . . . 416 <i>Martin S. Flaherty</i>
PART V INTERNATIONAL LAW IN THE U.S. SUPREME COURT IN THE TWENTY-FIRST CENTURY	
	Introductory Note . . . . . 443
V.A TREATIES AFTER 2000	
	Main Essay – <i>Medellin</i> and <i>Sanchez-Llamas</i> : Treaties from John Jay to John Roberts . . . . . 451 <i>Lori F. Damrosch</i>
	Response Essay – The Benefits of Avoiding Conflicts between the Constitution and International Law . . . . . 465 <i>Julian Ku</i>
	Response Essay – <i>Medellin</i> and the Passive Vices . . . . . 472 <i>David L. Sloss</i>
V.B CUSTOMARY INTERNATIONAL LAW AFTER 2000	
	Main Essay – <i>Sosa</i> and the Derivation of Customary International Law . . . . . 481 <i>John O. McGinnis</i>
	Response Essay – “Cheap Talk” about Customary International Law . . . . . 494 <i>Chimène I. Keitner</i>
	Response Essay – History, Ideology, and <i>Erie v. Tompkins</i> . . . . . 499 <i>Edward A. Purcell, Jr.</i>
V.C INTERNATIONAL LAW AND CONSTITUTIONAL INTERPRETATION AFTER 2000	
	Main Essay – International Law and Constitutional Interpretation in the Twenty-First Century: Change and Continuity . . . . . 507 <i>Mark Tushnet</i>

Cambridge University Press  
978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change  
David L. Sloss, Michael D. Ramsey and William S. Dodge  
Frontmatter  
[More information](#)

Contents	ix
Response Essay – Why Constitutional Comparativism Is Different: A Response to Professor Tushnet . . . . .	518
Roger P. Alford	
Response Essay – Judicial Dialogue in <i>Roper</i> : Signaling the Court’s Emergence as a Transnational Legal Actor? . . . . .	523
Melissa A. Waters	
V.D INTERNATIONAL LAW AND STATUTORY INTERPRETATION AFTER 2000	
Main Essay – <i>Empagran</i> ’s Empire: International Law and Statutory Interpretation in the U.S. Supreme Court of the Twenty-First Century . . . . .	533
Ralf Michaels	
Response Essay – Loose Canons: International Law and Statutory Interpretation in the Twenty-First Century . . . . .	547
William S. Dodge	
Response Essay – <i>Empagran</i> : Empire Building or Judicial Modesty? . . . . .	553
Paul B. Stephan	
V.E INTERNATIONAL LAW AND THE WAR ON TERROR	
Main Essay – The Supreme Court, the War on Terror, and the American Just War Constitutional Tradition . . . . .	561
David Golove	
Response Essay – Constitutional Resolve in a World Changed Utterly . . . . .	575
Martin S. Flaherty	
Response Essay – Judicial Imperialism and the War on Terror Cases . . . . .	582
Michael D. Ramsey	
PART VI CONCLUSION	
Continuity and Change over Two Centuries . . . . .	589
David L. Sloss, Michael D. Ramsey, and William S. Dodge	
Index	607

## List of Contributors

**Roger P. Alford** is Professor of Law at Pepperdine University School of Law. Prior to joining the faculty in 2000, Professor Alford served as a senior legal advisor with the Claims Resolution Tribunal for Dormant Accounts in Switzerland, the tribunal established to resolve claims to dormant Holocaust-era Swiss bank accounts. From 1995 to 1999, he practiced law with Hogan & Hartson (now HoganLovells) in Washington, DC. He clerked for Judge James L. Buckley on the U.S. Court of Appeals for the DC Circuit and Judge Richard C. Allison on the Iran–U.S. Claims Tribunal in The Hague, Netherlands. He has authored a number of scholarly articles and coedited *Holocaust Restitution: Perspectives on the Litigation and Its Legacy* (2006). The focus of his scholarship is foreign relations law, international commercial law, human rights law, arbitration, and international courts and tribunals. He is a permanent contributor to the international law blog *Opinio Juris*. He has been a member of the Council on Foreign Relations and has served on the Executive Council of the American Society of International Law, the Executive Committee of the Institute for Transnational Arbitration, and the Executive Committee of the American Branch of the International Law Association.

**David J. Bederman** is the K.H. Gyr Professor of Private International Law at Emory University. He holds an AB in international affairs from Princeton University, an MSc in marine affairs from the London School of Economics, a JD from the University of Virginia, a Diploma from the Hague Academy of International Law, and a PhD in law from the University of London. He clerked for Judge Charles E. Wiggins on the U.S. Court of Appeals for the Ninth Circuit and served as a legal assistant at the Iran–U.S. Claims Tribunal in The Hague, Netherlands. Professor Bederman’s academic and professional career has focused on international law and its practical impact on American government. He represents clients on important constitutional and international law issues, including a number of cases before the U.S. Supreme Court and significant international arbitrations. He has served as a litigation consultant to the U.S. Departments of Justice, State, and Treasury and numerous federal agencies. Professor Bederman’s research interests also include legal theory and history, admiralty and maritime law, and federal practice and procedure. He is a member of the board of editors of the *American Journal of International Law*.

**Lori F. Damrosch** is the Hamilton Fish Professor of International Law and Diplomacy and Henry L. Moses Professor of Law and International Organization at Columbia



Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

University. In 2009, she was a visiting professor at Harvard Law School. She received her BA from Yale, *summa cum laude*, in 1973 and her JD from Yale Law School in 1976. She clerked for Judge Jon Newman on the U.S. District Court for the District of Connecticut. Professor Damrosch served in the Office of the Legal Adviser, U.S. Department of State, from 1977 to 1980 and with Sullivan & Cromwell from 1981, until she joined the Columbia University faculty in 1984. Her publications include *The International Court of Justice at a Crossroads* (1987; editor); *Law and Force in the New International Order* (1991; editor); *Enforcing Restraint: Collective Intervention in Internal Conflicts* (1993; editor); *Beyond Confrontation: International Law for the Post-Cold War Era* (1995; editor); *Enforcing International Law through Non-Forcible Measures* (1997); and *International Law: Cases and Materials* (5th ed. 2009). She is a member of the Council on Foreign Relations and the Department of State Advisory Committee on International Law. She served as Vice President of the American Society of International Law from 1996 to 1998 and as a counselor from 2001 to 2005. She has been on the board of editors of the *American Journal of International Law* since 1990 and its Coeditor-in-Chief since 2003.

**William S. Dodge** is Professor of Law at the University of California, Hastings College of the Law. He is coauthor (with Detlev F. Vagts and Harold Hongju Koh) of the casebook *Transnational Business Problems* (4th ed. 2008) and has written extensively on, among other topics, the history of customary international law in American courts and statutory interpretation in the international context. In 2004, he wrote the Amicus Brief of Professors of Federal Jurisdiction and Legal History in *Sosa v. Alvarez-Machain*, the position of which the Supreme Court adopted. He is a member of the Department of State Advisory Committee on International Law. Professor Dodge received his BA in History, *summa cum laude*, from Yale in 1986 and his JD from Yale Law School in 1991. After law school, he clerked for Judge William A. Norris on the U.S. Court of Appeals for the Ninth Circuit and for Justice Harry A. Blackmun on the U.S. Supreme Court. He practiced law with Arnold & Porter in Washington, DC, before joining the University of California, Hastings, faculty in 1995.

**Martin S. Flaherty** is Leitner Family Professor of Law and Co-Founding Director of the Leitner Center for International Law and Justice of Fordham Law School. He is also a visiting professor at the Woodrow Wilson School of Public and International Affairs, where he was a Fellow in its Program in Law and Public Affairs. Professor Flaherty recently founded the Rule of Law in Asia Program at the Leitner Center. Previously, Professor Flaherty clerked for Justice Byron R. White on the U.S. Supreme Court and Chief Judge John Gibbons on the U.S. Court of Appeals for the Third Circuit. He holds a BA, *summa cum laude*, from Princeton; an MA and MPhil in history from Yale; and a JD from Columbia Law School, where he was Book Review and Articles Editor of the *Columbia Law Review*. Formerly chair of the New York City Bar Association's International Human Rights Committee, he has led and participated in human rights missions to Northern Ireland, Turkey, Hong Kong, Mexico, Malaysia, Kenya, and Romania. He is also a member of the Council on Foreign Relations. Professor Flaherty's publications focus on constitutional law and history, foreign affairs, and international human rights.

**David Golove** is the Hiller Family Foundation Professor of Law at New York University School of Law. He specializes in constitutional law and history, focusing on foreign affairs, and has written extensively in these fields. Among his best-known writings is a

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## List of Contributors

xiii

book-length article “Treaty-Making and the Nation: The Historical Foundations of the Nationalist Conception of the Treaty Power,” published in the *Michigan Law Review*. He also coauthored (with Bruce Ackerman) a *Harvard Law Review* article on the constitutionality of congressional–executive agreements. His most recent article, “A Civilized Nation: The Early American Constitution, the Law of Nations, and the Pursuit of International Recognition” (*NYU Law Review*, with Daniel Hulsebosch), offers an account of the American Constitution as, fundamentally, an international document designed to integrate the new nation into the wider community of European states governed by the law of nations. Professor Golove received his BA from the University of California at Berkeley in 1979 and his law degrees from Berkeley and Yale. He teaches in the fields of constitutional law and international law. Professor Golove is a Codirector of the NYU Center on Law and Security.

**Duncan B. Hollis** is Associate Dean for Academic Affairs and Professor of Law at Temple University School of Law. His scholarship focuses on issues of authority in international and foreign affairs law. Professor Hollis coauthored and coedited *National Treaty Law & Practice* (2005), which analyzes how different nation-states use their domestic laws to regulate the negotiation, conclusion, and implementation of treaties. Beyond treaties, Professor Hollis researches the broader role that agreements play in U.S. and international affairs, whether via political commitments, foreign compacts, or new rules for cyberwarfare. His work was cited repeatedly by the dissent in the 2008 U.S. Supreme Court decision *Medellin v. Texas*, and he counseled the Senate Foreign Relations Committee on possible Senate responses to that decision. Professor Hollis received his AB, summa cum laude, from Bowdoin College. In 1996, he received a Master in International Law and Diplomacy degree from the Fletcher School at Tufts University and a JD, summa cum laude, from Boston College Law School. From 1998 to 2004, he served as an attorney adviser in the State Department’s Office of the Legal Adviser. Since 2006, Professor Hollis has been a regular contributor to the international law blog *Opinio Juris*.

**Chimène I. Keitner** is Associate Professor of Law at the University of California, Hastings College of the Law. Her scholarship focuses on the relationships among law, communities, and borders. She is the author of *The Paradoxes of Nationalism: The French Revolution and Its Meaning for Contemporary Nation-Building* (2007) and of numerous journal articles on questions involving the intersection of international and domestic law, international law and international relations, and the history of political ideas. She earned an AB in history and literature from Harvard University, a DPhil in international relations from Oxford University as a Rhodes Scholar, and a JD from Yale Law School as a Paul & Daisy Soros Fellow. Prior to teaching, Professor Keitner clerked for the Chief Justice of the Supreme Court of Canada and spent several years as a litigator in San Francisco. In 2010, she authored the Amicus Brief of Professors of Public International Law and Comparative Law in the U.S. Supreme Court case *Samantar v. Yousuf*. Her recent work includes comparative and historical projects related to alien tort litigation, the extraterritorial application of public law, and foreign official immunity.

**Julian Ku** is Professor of Law at Hofstra University School of Law in New York. He teaches and writes in the areas of international and constitutional law. He has published more than 20 articles, book chapters, and essays in publications such as the *Yale Law Journal*, *Supreme Court Review*, and *Virginia Journal of International Law*. He is a

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

cofounder of the international law blog *Opinio Juris*. Prior to joining the Hofstra faculty in 2002, Professor Ku clerked for Judge Jerry Smith on the U.S. Court of Appeals for the Fifth Circuit and served as an Olin Fellow and Lecturer in Law at the University of Virginia Law School. Professor Ku holds a BA from Yale University and a JD from Yale Law School. He has taught as a visiting professor at William and Mary Marshall-Wythe College of Law and recently served as the Fulbright Distinguished Lecturer in Law at East China University of Political Science and Law in Shanghai, China.

**Thomas H. Lee** is Leitner Family Professor of Law and Director of International Studies at Fordham University School of Law in New York, where he teaches and writes in the areas of constitutional law, federal courts, and international law. He is the author of many articles and of a forthcoming book on the international laws of war and the American Civil War. He received his JD from Harvard Law School, where he was Articles Chair of the *Harvard Law Review* and winner of the Laylin Prize in International Law. He also holds an AB, summa cum laude, and an AM in East Asian Studies from Harvard, where he is currently a PhD candidate in government, specializing in international relations theory. Prior to teaching, he served as a U.S. naval intelligence officer from 1991 to 1995, with four submarine deployments. He clerked for Judge Michael Boudin on the U.S. Court of Appeals for the First Circuit and for Justice David Souter on the U.S. Supreme Court. He has taught as a visiting professor at Columbia Law School, the University of Virginia School of Law, Leiden University in the Netherlands, and Sungkyunkwan University in Seoul, Korea.

**John O. McGinnis** is the George C. Dix Professor of Law at Northwestern University. He is a graduate of Harvard and Harvard Law School, where he was an editor of the *Harvard Law Review*. He has an MA in philosophy and theology from Balliol College, Oxford. He has taught administrative law, constitutional law, international economic law, and antitrust. He is a past winner of the Paul Bator Award given by the Federalist Society to outstanding academics younger than 40. Professor McGinnis has published widely in professional journals and journals of opinion.

**Ralf Michaels** is Professor of Law at Duke University School of Law, where he has taught since 2002. Previously, he was Senior Research Fellow at the Max Planck Institute for Comparative Law and Private International Law in Hamburg, Germany, and a Joseph Story Fellow at Harvard Law School. He holds degrees from the Universities of Passau and Cambridge. Since coming to Duke, he has held the Lloyd Cutler Fellowship at the American Academy in Berlin, a distinguished visitor fellowship at the Max Planck Institute in Hamburg, and a fellowship at the Program in Law and Public Affairs at Princeton University. He has been a visiting professor at the Universities of Paris II, Princeton, Pennsylvania, and Toronto. Professor Michaels teaches and researches in the areas of comparative law, conflict of laws, and law and globalization. He is coeditor and author of several books and articles, published in the United States and in Europe, in these areas. Currently, his main focus is on two projects: a theory of U.S. courts as world courts and (with Karen Knop (University of Toronto) and Annelise Riles (Cornell University)) the conflict of laws as a theory of global law.

**Edward A. Purcell, Jr.**, is the Joseph Solomon Distinguished Professor at New York Law School, where he teaches civil procedure, federal courts, complex litigation, and civil rights law. His most recent books include *Originalism*, *Federalism*, and *the American*

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## List of Contributors

xv

*Constitutional Enterprise: A Historical Inquiry* (2007) and *Brandeis and the Progressive Constitution: Erie, the Judicial Power, and the Politics of the Federal Courts in Twentieth-Century America* (2000), which won the Order of the Coif's Triennial Book Award and the Triennial Griswold Prize of the Supreme Court Historical Society. Professor Purcell holds a PhD in American intellectual history from the University of Wisconsin and a JD from Harvard Law School. He joined Paul, Weiss, Rifkind, Wharton & Garrison in New York City in 1979, where he practiced law and worked on his second book, *Litigation and Inequality: Federal Diversity Jurisdiction in Industrial America, 1870–1958* (1992). He has served on the board of directors of the American Society for Legal History and the Community Law Office of The Legal Aid Society and is currently on the editorial board of *Continuity and Change* and the academic advisory board of the Institute for Constitutional Studies at George Washington University Law School.

**Michael D. Ramsey** is Professor of Law at the University of San Diego School of Law, where he teaches and writes in the areas of constitutional law, foreign relations law, and international law. He is the author of *The Constitution's Text in Foreign Affairs* (2007) and of numerous articles on foreign relations law in publications such as the *Yale Law Journal*, *University of Chicago Law Review*, *Georgetown Law Journal*, and *American Journal of International Law*. He received his BA, magna cum laude, from Dartmouth College and his JD, summa cum laude, from Stanford Law School. Prior to teaching, he served as a law clerk for Judge J. Clifford Wallace on the U.S. Court of Appeals for the Ninth Circuit and for Justice Antonin Scalia on the U.S. Supreme Court. He practiced law with the law firm of Latham & Watkins, where he specialized in international finance and investment. He has taught as a visiting professor in the Department of Political Science at the University of California, San Diego, and the Department of Comparative Law at the University of Paris II – Sorbonne.

**David L. Sloss** is Professor of Law at Santa Clara University School of Law, where he serves as the Director of the Center for Global Law and Policy. He is the editor of *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study* (2009). He has published numerous articles on the history of U.S. foreign affairs law and the judicial enforcement of treaties in U.S. courts. Professor Sloss received his BA from Hampshire College, his MPP from Harvard, and his JD from Stanford Law School. Prior to joining the Santa Clara University faculty, he taught for nine years at Saint Louis University School of Law. Before teaching, he clerked for Judge Joseph T. Sneed on the U.S. Court of Appeals for the Ninth Circuit and worked as an associate for Wilson, Sonsini, Goodrich & Rosati. He also spent nine years in the federal government, where he worked on East–West arms control negotiations and nuclear proliferation issues.

**Paul B. Stephan** is the John C. Jeffries Distinguished Professor of Law and the Elizabeth D. and Richard A. Merrill Professor of Law at the University of Virginia School of Law and the Justin D'Atri Visiting Professor of Law, Business and Society at Columbia Law School. From 2006 to 2007, he served as Counselor on International Law in the U.S. Department of State and from 1993 to 1998, he helped organize and advise the U.S. Treasury's program that provided technical assistance to tax authorities in former socialist countries. He has taught at the University of Virginia since 1979 and has held visiting appointments at law faculties in Russia, Austria, France, Germany, Switzerland,

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

Australia, and Israel. During the two-year period between his graduation and return as a professor, he clerked for Judge Levin Campbell on the U.S. Court of Appeals for the First Circuit and for Justice Lewis F. Powell, Jr., on the U.S. Supreme Court.

**Mark Tushnet** is the William Nelson Cromwell Professor of Law at Harvard Law School. He graduated from Harvard and Yale Law School and served as a law clerk to Justice Thurgood Marshall on the U.S. Supreme Court. Professor Tushnet specializes in constitutional law and theory, including comparative constitutional law. His research includes studies examining (skeptically) the practice of judicial review in the United States and around the world. He also writes on legal and particularly constitutional history, with works on the development of civil rights law in the United States and (currently) a long-term project on the history of the Supreme Court in the 1930s. Professor Tushnet has authored several books on U.S. constitutional law and comparative constitutional law.

**Michael P. Van Alstine** is Professor of Law at the University of Maryland School of Law. He has published widely in both English and German in the areas of foreign affairs law, treaty law, and international and domestic commercial transactions. His particular area of scholarly interest is the domestic application of international law, especially through the vehicle of treaties. Before joining the University of Maryland faculty in 2002, Professor Van Alstine spent eight years on the faculty of the University of Cincinnati College of Law. Professor Van Alstine has earned law degrees in the United States and Germany. He received both his Doctor of Laws and Master of Comparative Law degrees, *summa cum laude*, from the University of Bonn, Germany. He obtained his JD with high honors from George Washington University. Before becoming a law professor, he also practiced domestic and international commercial and business law at firms in the United States and Germany.

**Melissa A. Waters** is Professor of Law at the Washington University School of Law. Her research interests include foreign relations law, international law, international human rights law, comparative law, and conflicts of law. Her scholarly work focuses on the incorporation of international law into domestic legal regimes, in particular on the role of transnational judicial dialogue in developing international legal norms and in transforming U.S. and other domestic courts into key mediators between domestic and international law. In 2006, her work was one of three U.S. entries selected by the American Society of International Law (through a peer-review process) for presentation at the inaugural *Four Societies Symposium* – a joint symposium of the American, Australia/New Zealand, Canadian, and Japanese Societies of International Law. Prior to teaching law, Professor Waters served in the U.S. State Department as Senior Advisor to Harold Hongju Koh, Assistant Secretary of State for Democracy, Human Rights, and Labor. She was a litigator at Williams & Connolly in Washington, DC, where she was a member of President Clinton's legal defense team. She is a graduate of Yale and Yale Law School.

**John Fabian Witt** is the Allen H. Duffy Class of 1960 Professor of Law at Yale Law School. He is the author of widely acclaimed works on the history of American law, including *Patriots and Cosmopolitans: Hidden Histories of American Law* (2007), which explores law and nationhood at key moments in American history from the Founding to the Cold War, and of the prizewinning book *The Accidental Republic: Crippled Workingmen, Destitute Widows, and the Remaking of American Law* (2004), as well

Cambridge University Press  
978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change  
David L. Sloss, Michael D. Ramsey and William S. Dodge  
Frontmatter  
[More information](#)

---

List of Contributors

xvii

as articles in the *Columbia Law Review*, *Harvard Law Review*, *Yale Law Journal*, and other scholarly journals. His writing has appeared in the *New York Times*, *Slate*, and the *Washington Post*. He is currently writing a book on the law of war in American history, from the Revolution to the turn of the twentieth century. Professor Witt is a graduate of Yale and Yale Law School and holds a PhD in history from Yale. Before returning to Yale, he was the George Welwood Murray Professor of Legal History at Columbia University. He served as law clerk to Judge Pierre N. Leval on the U.S. Court of Appeals for the Second Circuit.



Table of Cases

A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935) – 197, 279	American Banana Co. v. United Fruit Co., 166 F. 261 (2d Cir. 1908) – 262
Abbott v. Abbott, 130 S. Ct. 1983 (2010) – 444	American Banana Co. v. United Fruit Co., 213 U.S. 347 (1909) – 260–69, 295–96, 388, 391, 541–42, 547, 599
Abdullahi v. Pfizer, Inc., 562 F.3d 163 (2009) – 492	Ambach v. Norwick, 441 U.S. 68 (1979) – 340
Abebe-Jira v. Negewo, 72 F.3d 844 (11th Cir. 1996) – 371	American Insurance Co. v. 356 Bales of Cotton (American Insurance Co. v. Canter), 26 U.S. 511 (1828) – 31–32, 98, 115, 199, 287
Abington School District v. Schempp, 374 U.S. 203 (1963) – 339	American Insurance Association v. Garamendi, 539 U.S. 396 (2003) – 220, 444, 462–63
Adamson v. California, 332 U.S. 46 (1947) – 275, 521	Amiable Isabella, The, 19 U.S. 1 (1821) – 16–17, 47, 59, 81, 211
Adra v. Clift, 195 F. Supp. 857 (D. Md. 1961) – 367	Amistad, The, 40 U.S. 518 (1841) – 25, 49
Adula, The, 176 U.S. 361 (1900) – 105–07, 109–10	Anderson v. Abbott, 321 U.S. 349 (1944) – 365–66
Afroyim v. Rusk, 387 U.S. 253 (1967) – 302, 344, 412, 435, 437, 602	Andrus v. Allard, 444 U.S. 51 (1979) – 351
Aguilar v. Standard Oil Co., 318 U.S. 724 (1943) – 203	Angarica v. Bayard, 127 U.S. 251 (1888) – 64, 71
Ah How v. United States, 193 U.S. 65 (1904) – 206–07	Antelope, The, 23 U.S. 66 (1825) – 25, 35–37, 50, 92, 99–100, 104, 170–71, 488, 539, 543–44, 595–96
Ainsa v. United States, 161 U.S. 208 (1896) – 61, 68–72, 84	Apollon, The, 22 U.S. 362 (1824) – 38, 539
Air France v. Saks, 470 U.S. 392 (1985) – 337, 347	Argentine Republic v. Amerada Hess Shipping Corp., 488 U.S. 428 (1989) – 330, 388, 423, 593
Alaska Packers Association v. Industrial Accident Commission, 294 U.S. 532 (1935) – 236	Arizona v. California, 292 U.S. 341 (1934) – 210
Alberty v. United States, 162 U.S. 499 (1896) – 81	Arkansas Railroad Commission v. Chicago, Rock Island & Pacific Railroad Co., 274 U.S. 597 (1927) – 293
Alden v. Maine, 527 U.S. 706 (1999) – 473	Arrest Warrant of 11 April 2000 (Dem. Rep. Congo v. Belg.), 2002 I.C.J. 3 (Feb. 14) – 372
Alfred Dunhill of London, Inc. v. Republic of Cuba, 425 U.S. 682 (1976) – 364, 401	Asahi Metal Industry Co. v. Superior Court, 480 U.S. 102 (1987) – 408
Allgeyer v. Louisiana, 165 U.S. 578 (1897) – 235–36, 305, 597	Asakura v. City of Seattle, 265 U.S. 332 (1924) – 198, 202–04, 212, 214, 311–12, 589
Alling v. United States, 114 U.S. 562 (1885) – 71	Astiazaran v. Santa Rita Land & Mining Co., 148 U.S. 80 (1893) – 61, 72
Alvarez v. United States, 216 U.S. 167 (1910) – 203, 207	Atkins v. Virginia, 536 U.S. 304 (2002) – 445, 525
American Banana Co. v. United Fruit Co., 160 F. 184 (S.D.N.Y. 1908) – 262	

Avena and Other Mexican Nationals (Mex. v. U.S.), 2004 I.C.J. 12 (Mar. 31) – 443–44, 453–54, 457–60, 469–70, 476–77	Benz v. Compania Naviera Hidalgo, S.A., 353 U.S. 138 (1957) – 384–86, 388
B. Altman & Co. v. United States, 224 U.S. 583 (1912) – 219–21, 592	Berg v. British & African Steam Navigation Co., 243 U.S. 124 (1917) – 205, 235, 246
Bacardi Corp. of America v. Domenech, 311 U.S. 150 (1940) – 203–05, 212–14	Bergere v. United States, 168 U.S. 66 (1897) – 72
Baker v. Carr, 369 U.S. 186 (1962) – 333	Berizzi Bros. Co. v. The Pesaro, 271 U.S. 562 (1926) – 238
Baldwin v. Franks, 120 U.S. 678 (1887) – 56, 77–78, 83	Bernstein v. N.V. Nederlandsche-Amerikaansche Stoomvaart-Maatschappij, 210 F.2d 375 (2d Cir. 1954) – 364, 432
Baltimore & Ohio Railroad Co. v. Baugh, 149 U.S. 368 (1893) – 228, 503	Best v. Polk, 85 U.S. 112 (1873) – 61, 67, 81
Banco Nacional de Cuba v. Farr, 243 F. Supp. 957 (S.D.N.Y. 1965) – 364	Bingham v. Bradley, 241 U.S. 511 (1916) – 205
Banco Nacional de Cuba v. First National City Bank of New York, 431 F.2d 394 (2d Cir. 1970) – 364	Bissell v. Penrose, 49 U.S. 317 (1850) – 15, 34
Banco Nacional de Cuba v. Sabbatino, 193 F. Supp. 375 (S.D.N.Y. 1961) – 360	Black & White Taxicab Co. v. Brown & Yellow Taxicab Co., 276 U.S. 518 (1928) – 233, 243
Banco Nacional de Cuba v. Sabbatino, 307 F.2d 845 (2d Cir. 1962) – 360	Black Diamond Steamship Corp. v. Robert Stewart & Sons, Ltd., 336 U.S. 386 (1949) – 350
Banco Nacional de Cuba v. Sabbatino, 376 U.S. 398 (1964) – 251, 292, 322, 353–54, 359–64, 366, 368, 371, 375, 378–79, 429–33, 437, 503, 538, 598	Blackmer v. United States, 284 U.S. 421 (1932) – 255, 260, 268–69, 387, 407, 600
Bank of Augusta v. Earle, 38 U.S. 519 (1839) – 29, 100, 103	Blue Chip Stamps v. Manor Drug Stores, 421 U.S. 723 (1975) – 351, 555
Bank of the United States v. Tyler, 29 U.S. 366 (1830) – 30	Boddie v. Connecticut, 401 U.S. 371 (1971) – 477
Banks v. Greenleaf, 2 F. Cas. 756 (C.C. Va. 1799) – 29	Bolchos v. Darrell, 3 F. Cas. 810 (D.S.C. 1795) – 367
Barcelona Traction, Light & Power Co. (Belg. v. Spain), 1970 I.C.J. 3 (Feb. 5) – 365	Boom Co. v. Patterson, 98 U.S. 403 (1879) – 154, 301
Barclays Bank PLC v. Franchise Tax Board, 512 U.S. 298 (1994) – 197–98, 341	Boos v. Barry, 485 U.S. 312 (1988) – 346
Barker v. Harvey, 181 U.S. 481 (1901) – 207, 215, 222	Botiller v. Dominguez, 130 U.S. 238 (1889) – 58, 61, 73
Barrera-Echavarria v. Rison, 44 F.3d 1441 (9th Cir. 1995) – 377	Boumediene v. Bush, 553 U.S. 723 (2008) – 447, 513, 561–63, 568, 568–71, 578–580, 583–84, 587, 593, 602–03
Bartram v. Robertson, 122 U.S. 116 (1887) – 70, 76, 83	Bowers v. Hardwick, 478 U.S. 186 (1986) – 509
Bas v. Tingy, 4 U.S. 37 (1800) – 584	Braniff Airways, Inc. v. Nebraska State Board, 347 U.S. 590 (1954) – 341
Board of Trustees of the University of Alabama v. Garrett, 531 U.S. 356 (2001) – 306	Bray v. F. Hoffman-La Roche Ltd., [2002] 118 F.C.R. 1 (Austl.) – 533
Beers v. Arkansas, 61 U.S. 527 (1858) – 159	Breard v. Greene, 523 U.S. 371 (1998) – 70, 327–28, 338, 394, 399–401, 421–23, 429, 441, 443, 453–55, 457–58, 469, 594
Belgenland, The, 114 U.S. 355 (1885) – 92, 100, 109–10, 126	Bremen, The v. Zapata Off-Shore Co., 407 U.S. 1 (1972) – 554
Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) – 555	Brig Amy Warwick, The (The Prize Cases), 67 U.S. 635 (1863) – 90, 92–97, 99, 105, 109–10, 121–22, 133, 142–47, 171–76, 180–83, 276, 562, 564–66, 585–86, 596, 603
Benito Estenger, The, 176 U.S. 568 (1900) – 603	Browder v. United States, 312 U.S. 335 (1941) – 268
Benjamins v. British European Airways, 572 F.2d 913 (2d Cir. 1978) – 367	Brown v. Board of Education, 347 U.S. 483 (1954) – 339, 366, 418, 431
Benson v. McMahon, 127 U.S. 457 (1888) – 58, 71, 81	Brown v. Duchesne, 60 U.S. 183 (1857) – 39
	Brown v. Piper, 91 U.S. 37 (1875) – 113



Brown v. United States, 12 U.S. 110 (1814) – 34–35, 40, 43, 46, 50, 121–22, 175–76, 180, 574, 583, 585–86, 596	Cheung Sum Shee v. Nagle, 268 U.S. 336 (1925) – 206–08, 590
Brown v. Walker, 161 U.S. 591 (1896) – 76	Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) – 332, 394–97, 439–40
Bryan v. Kennet, 113 U.S. 179 (1885) – 76	Chew Heong v. United States, 112 U.S. 536 (1884) – 56, 58, 61, 64, 67, 69, 73–76, 80–82, 134, 155, 208, 311, 399, 458, 590, 599
Bryant v. United States, 167 U.S. 104 (1897) – 71	Chin Fong v. Backus, 241 U.S. 1 (1916) – 206
Bucher v. Cheshire Railroad Co., 125 U.S. 555 (1888) – 502	China, The, 74 U.S. 53 (1869) – 94
Buena Ventura, The, 175 U.S. 384 (1899) – 132–33, 586	Chinese Exclusion Case, The, 130 U.S. 581 (1889) – see Chae Chan Ping v. United States
Bunting v. Oregon, 243 U.S. 426 (1917) – 273	Chirac v. Chirac’s Lessee, 15 U.S. 259 (1817) – 14, 591
Burger v. Kemp, 483 U.S. 776 (1987) – 346	Chisholm v. Georgia, 2 U.S. 419 (1793) – 7, 41
Burnet v. Brooks, 288 U.S. 378 (1932) – 302	Choctaw Nation v. United States, 119 U.S. 1 (1886) – 60, 72, 82
Burns Mortgage Co. v. Fried, 292 U.S. 487 (1934) – 233–34, 251	Choctaw Nations v. United States, 318 U.S. 423 (1943) – 210, 213
Burthe v. Denis, 133 U.S. 514 (1890) – 67, 71, 83	Chouteau v. Eckhart, 43 U.S. 344 (1844) – 20, 215
Bush v. Gore, 531 U.S. 98 (2000) – 177, 588	Chubb & Son, Inc. v. Asiana Airlines, 214 F.3d 301 (2000) – 347
Bustillo v. Johnson, 548 U.S. 331 (2006) – 443–44, 454–57, 475–76	Chuidian v. Philippine National Bank, 912 F.2d 1095 (9th Cir. 1990) – 406
Butler v. Boston & Savannah Steamship Co., 130 U.S. 527 (1889) – 116, 305	Church of the Holy Trinity v. United States, 143 U.S. 457 (1892) – 311–12
Buttfield v. Stranahan, 192 U.S. 470 (1904) – 436	Church v. Hubbard, 6 U.S. 187 (1804) – 97
Cabell v. Chavez-Salido, 454 U.S. 432 (1982) – 340	Chy Lung v. Freeman, 92 U.S. 275 (1876) – 60, 69
California Oregon Power Co. v. Beaver Portland Cement Co., 295 U.S. 142 (1935) – 294	City of Boerne v. Flores, 521 U.S. 507 (1997) – 206
Cameron Septic Tank Co. v. City of Knoxville, 227 U.S. 39 (1913) – 204, 210, 591	City of New York v. Miln, 36 U.S. 102 (1837) – 42, 48
Carneal v. Banks, 23 U.S. 181 (1825) – 15	City of Washington, The, 92 U.S. 31 (1876) – 97
Carnival Cruise Lines, Inc. v. Shute, 499 U.S. 585 (1991) – 554	Civil Rights Cases, The, 109 U.S. 3 (1883) – 58
Carter v. Carter Coal Co., 298 U.S. 238 (1936) – 294, 302	Clark v. Allen, 331 U.S. 503 (1947) – 337, 340–41, 421, 426–27, 594
Cessna v. United States, 169 U.S. 165 (1898) – 72	Clearfield Trust Co. v. United States, 318 U.S. 363 (1943) – 503
Chae Chan Ping v. United States (The Chinese Exclusion Case), 130 U.S. 581 (1889) – 56, 60–64, 68–70, 73–76, 116, 134–35, 141, 154–55, 184–85	Clinton Bridge, The, 5 F. Cas. 1060 (C.C.D. Iowa 1867) – 73
Champion v. Ames, 188 U.S. 321 (1903) – 436	Cockrill v. California, 268 U.S. 258 (1925) – 214–15
Chan v. Korean Air Lines, Ltd., 490 U.S. 122 (1989) – 336–37, 347	Coffee v. Groover, 123 U.S. 1 (1887) – 76
Charlton v. Kelly, 229 U.S. 447 (1913) – 196, 206–07, 211, 217, 425	Coker v. Georgia, 433 U.S. 584 (1977) – 412–13, 437, 517, 604
Chelentis v. Luderback Steam Ship Co., 247 U.S. 372 (1918) – 233, 239	Comegys v. Vasse, 26 U.S. 193 (1828) – 17
Cherokee Nation v. Georgia, 30 U.S. 1 (1831) – 65, 196	Committee of United States Citizens Living in Nicaragua v. Reagan, 859 F.2d 929 (D.C. Cir. 1988) – 454
Cherokee Nation v. Southern Kansas Railway Co., 135 U.S. 641 (1890) – 70	Connecticut v. Massachusetts, 282 U.S. 660 (1931) – 231, 294
Cherokee Tobacco, The, 78 U.S. 616 (1871) – 19, 58, 60, 62, 73–76, 134–36, 138, 141, 206, 590, 601	Container Corp. of America v. Franchise Tax Board, 463 U.S. 159 (1983) – 341
Cherokee Trust Funds, The, 117 U.S. 288 (1886) – 70	

Continental T.V., Inc. v. GTE Sylvania Inc., 433 U.S. 36 (1977) – 557	Dole Food Co. v. Patrickson, 538 U.S. 468 (2003) – 446–47, 552
Cook v. Tait, 265 U.S. 47 (1924) – 268	Dooley v. United States, 182 U.S. 222 (1901) – 195, 276, 596
Cook v. United States, 288 U.S. 102 (1933) – 203, 205–08, 210, 259, 399, 590	Dorr v. United States, 195 U.S. 138 (1904) – 199, 271, 296
Cooper v. Aaron, 358 U.S. 1 (1958) – 431	Downes v. Bidwell, 182 U.S. 244 (1901) – 199, 271–72, 296–97, 304–05, 312, 602
Corbett v. Stergios, 381 U.S. 124 (1965) – 336	Draper v. United States, 164 U.S. 240 (1896) – 73, 87
Cortez Byrd Chips v. Bill Harbert Construction Co., 529 U.S. 193 (2000) – 350	Dred Scott v. Sandford, 60 U.S. 393 (1857) – 43–44, 49, 172, 311, 601
Cosgrove v. Winney, 174 U.S. 64 (1899) – 68	Dreyfus v. von Finck, 534 F.2d 24 (2d Cir. 1976) – 367
Cotton Petroleum Corp. v. New Mexico, 490 U.S. 163 (1989) – 306	Duncan v. Louisiana, 391 U.S. 145 (1968) – 275, 431
Cotzhausen v. Nazro, 81 U.S. 152 (1871) – 79	Duus v. Brown, 245 U.S. 176 (1917) – 205
Crapo v. Kelly, 83 U.S. 610 (1873) – 125	East River Steamship Corp. v. Transamerica Delaval, Inc., 476 U.S. 858 (1986) – 378
Crosby v. National Foreign Trade Council, 530 U.S. 363 (2000) – 342, 463	Eastern Airlines v. Floyd, 499 U.S. 530 (1991) – 337, 347
Cross v. Harrison, 57 U.S. 164 (1854) – 38, 276	Edelman v. Jordan, 415 U.S. 651 (1974) – 466, 473
Cunard Steamship Co. v. Mellon, 262 U.S. 100 (1923) – 133, 259	Edye v. Robertson (The Head Money Cases), 112 U.S. 580 (1884) – 60–63, 66–67, 73–74, 76, 134, 140, 204, 206, 222, 591, 593
Curtis’s Administratrix v. Fiedler, 67 U.S. 461 (1863) – 19	EEOC v. Arabian American Oil Co., 499 U.S. 244 (1991) – 331, 388, 390–91, 393, 439–40, 540, 550, 600
D’Arcy v. Ketchum, 52 U.S. 165 (1851) – 25	El Al Israel Airlines v. Tsui Yuan Tseng, 325 U.S. 125 (1999) – 336–37, 347, 425, 593
Da Costa v. Laird, 405 U.S. 979 (1972) – 326	Elfrida, The, 172 U.S. 186 (1898) – 96, 115
Dainese v. Hale, 91 U.S. 13 (1875) – 128–29	Ely’s Administrator v. United States, 171 U.S. 220 (1898) – 57, 60, 68, 72, 74, 81, 90
Dames & Moore v. Regan, 453 U.S. 654 (1981) – 334, 424, 462	Emory v. Grenough, 3 U.S. 369 (1797) – 29
Davis v. Department of Labor & Industries, 317 U.S. 249 (1942) – 248, 597	Empagran S.A. v. F. Hoffman-La Roche, Ltd., 2001 WL 761360 (D.D.C.) – 537
Davis v. Police Jury, 50 U.S. 280 (1850) – 15	Enmund v. Florida, 458 U.S. 782 (1982) – 413, 437, 517
De la Croix v. Chamberlain, 25 U.S. 599 (1827) – 16, 25, 215	Ennis v. Smith, 55 U.S. 400 (1853) – 29, 235, 246
De Lima v. Bidwell, 182 U.S. 1 (1901) – 195, 198–99, 202, 218, 276, 310	Erie Railroad Co. v. Tompkins, 304 U.S. 64 (1938) – 225–56, 289–95, 353–54, 357, 359, 362–63, 366, 374–75, 378, 430, 432–33, 482, 487, 489, 494, 499–504, 597–599
Dent v. Emmeger, 81 U.S. 308 (1872) – 58, 70, 72, 79, 80	Ex parte Atocha, 84 U.S. 439 (1873) – 58, 72
Department of Employment v. United States, 385 U.S. 355 – 342	Ex parte Kan-gi-shu-ca, 109 U.S. 556 (1883) – 75
DeWolf v. Rabaud, 26 U.S. 476 (1828) – 30	Ex parte Medellin, 223 S.W.3d 315 (Tex. Crim. App. 2006) – 454, 468–70, 475–77
Disconto Gesellschaft v. Umbreit, 208 U.S. 570 (1908) – 212, 214, 238	Ex parte Milligan, 71 U.S. 2 (1866) – 146–47, 162, 583, 603
District of Columbia v. Heller, 554 U.S. 570 (2008) – 513–14	Ex parte New York, 256 U.S. 490 (1921) – 304
Divina Pastora, The, 17 U.S. 52 (1819) – 16	Ex parte Quirin, 317 U.S. 1 (1942) – 255, 277, 354–55, 429, 431, 562, 569, 586, 603
Doe I v. Unocal Corp., 395 F.3d 932 (9th Cir. 2002) – 373, 492	
Doe I v. Unocal Corp., 395 F.3d 978 (9th Cir. 2003) – 373	
Doe I v. Unocal Corp., 403 F.3d 708 (9th Cir. 2005) – 373	
Doe I v. Unocal Corp., 963 F. Supp. 880 (C.D. Cal. 1997) – 372–373, 379, 434	
Doe I v. Unocal Corp., 110 F. Supp. 2d 1294 (C.D. Cal. 2000) – 373	
Doe v. Braden, 57 U.S. 635 (1854) – 18, 195	

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## Table of Cases

xxiii

- Ex parte Republic of Peru, 318 U.S. 578 (1943) – 238, 243, 597, 602
- Ex parte Young, 209 U.S. 123 (1908) – 466
- Examining Board of Engineers, Architects & Surveyors v. Flores de Otero, 426 U.S. 572 (1976) – 340
- F. Hoffmann-La Roche Ltd. v. Empagran, S.A. 542 U.S., 155 (2004) – 1, 3, 458, 533–48, 550, 552–58, 588
- Factor v. Laubenheimer, 290 U.S. 276 (1933) – 196–97, 205, 210–14, 217, 298, 425
- Fairfax's Devisee v. Hunter's Lessee, 11 U.S. 603 (1813) – 14, 589, 591
- Farrell v. United States, 336 U.S. 511 (1949) – 326
- Federal Republic of Germany v. United States, 526 U.S. 111 (1999) – 328, 338, 453, 457
- Fernandez-Roque v. Smith, 622 F. Supp. 887 (N.D. Ga. 1985) – 377
- Field v. Clark, 143 U.S. 649 (1892) – 57, 219, 592
- Filartiga v. Pena-Irala, 577 F. Supp. 860 (E.D.N.Y. 1984) – 369
- Filartiga v. Pena-Irala, 630 F.2d 876 (2d Cir. 1980) – 366–78, 429–30, 489, 496–98, 598
- First National City Bank v. Banco Para El Comercio Exterior de Cuba, 462 U.S. 611 (1983) – 365–66
- First National City Bank v. Banco Nacional de Cuba, 406 U.S. 759 (1972) – 364, 432
- Fitzsimmons v. Newport Insurance Co., 8 U.S. 185 (1808) – 15, 28, 105
- Flatow v. Islamic Republic of Iran, 999 F. Supp. 1 (D.D.C. 1998) – 372
- Fleming v. Page, 50 U.S. 603 (1850) – 38, 43, 47, 271, 596
- Florida, The, 101 U.S. 37 (1880) – 105–06
- Fok Young Yo v. United States, 185 U.S. 296 (1902) – 197, 204, 206
- Foley Bros., Inc. v. Filardo, 336 U.S. 281 (1949) – 330, 387–89, 423, 438–40, 540, 547, 550, 600
- Foley v. Connelie, 435 U.S. 291 (1978) – 340
- Fong v. United States, 209 U.S. 453 (1908) – 206
- Fong Yue Ting v. United States, 149 U.S. 698 (1893) – 60, 62, 64, 73, 75–76, 154–55, 197, 300–01, 408–09, 436
- Ford v. United States, 273 U.S. 593 (1927) – 205, 260, 266, 387
- Forti v. Suarez-Mason, 672 F. Supp. 1531 (N.D. Cal. 1987) – 371
- Foster v. Neilson, 27 U.S. 253 (1829) – 18, 20–23, 55, 73, 76–77, 79, 83–84, 202–03, 303, 444, 460, 590, 594
- Fourteen Diamond Rings v. United States, 183 U.S. 176 (1901) – 217
- FPC v. Tuscarora Indian Nation, 362 U.S. 99 (1960) – 351
- Frelinghuysen v. Key, 110 U.S. 63 (1884) – 61–64, 71, 79, 84, 120, 461–62
- Frick v. Webb, 263 U.S. 326 (1923) – 214–15
- Frost v. Wenie, 157 U.S. 46 (1895) – 81, 134–37
- FTC v. A.P.W. Paper Co., 328 U.S. 193 (1946) – 323–24, 337, 348, 423
- Garcia-Mir v. Meese, 788 F.2d 1446 (11th Cir. 1986) – 377, 566
- Geofroy v. Riggs, 133 U.S. 258 (1890) – 56, 60, 64, 66–67, 80, 82, 84, 86, 198, 200–01, 209, 211, 286–87, 310, 589, 591
- Georgia v. Brailsford, 2 U.S. 402 (1792) – 45
- Gibbons v. Ogden, 22 U.S. 1 (1824) – 42
- Gisbert v. Attorney General, 988 F.2d 1437 (5th Cir. 1993) – 377
- Glass v. The Sloop Betsey, 3 U.S. 6 (1794) – 19, 24, 37, 45, 235, 584, 594
- Goldwater v. Carter, 444 U.S. 996 (1979) – 334
- Gonzales v. Carhart, 550 U.S. 124 (2007) – 519
- Graham v. Florida, 130 S. Ct. 2011 (2010) – 1, 445, 508, 520, 604
- Graham v. Richardson, 403 U.S. 365 (1971) – 340
- Great Western Insurance Co. v. United States, 112 U.S. 193 (1884) – 71, 461
- Greenspan v. Crosbie, 1976 WL 841 (S.D.N.Y.) – 406
- Grin v. Shine, 187 U.S. 181 (1902) – 206
- Griswold v. Connecticut, 381 U.S. 479 (1965) – 275, 431
- Grogan v. Hiram Walker & Sons, 259 U.S. 80 (1922) – 198
- Grueter v. Bollinger, 539 U.S. 306 (2003) – 445, 509
- Guaranty Trust Co. v. United States, 304 U.S. 126 (1938) – 196, 216, 238, 249
- Guessefeldt v. McGrath, 342 U.S. 308 (1952) – 331
- Guitard v. Stoddard, 57 U.S. 494 (1854) – 15
- Haitian Centers Council, Inc. v. McNary, 969 F.2d 1350 (2d Cir. 1992) – 390
- Hamdan v. Rumsfeld, 548 U.S. 557 (2006) – 67, 180, 323, 429, 447, 451, 561, 563, 567–68, 572–74, 576, 578, 583–84, 587, 593, 600
- Hamdi v. Rumsfeld, 542 U.S. 507 (2004) – 447, 561–63, 567–68, 572, 578–80, 583, 587, 600–01, 603
- Hamilton v. Kentucky Distilleries & Warehouse Co., 251 U.S. 146 (1919) – 195
- Hamilton, The, 207 U.S. 398 (1907) – 232, 255

Hammer v. Dagenhart, 247 U.S. 251 (1918) – 199	Holden v. Joy, 84 U.S. 211 (1872) – 59, 61, 67, 72, 75
Handel v. Artukovic, 601 F. Supp. 1421 (C.D. Cal. 1985) – 371	Holmes v. Jennison, 39 U.S. 540 (1840) – 42
Hanna v. Plumer, 380 U.S. 460 (1965) – 294	Holmes v. United States, 391 U.S. 936 (1968) – 326
Hans v. Louisiana, 134 U.S. 1 (1890) – 156, 160–62, 304	Home Insurance Co. v. Dick, 281 U.S. 397 (1930) – 236
Harden v. Fisher, 14 U.S. 300 (1816) – 16	Hong v. United States, 193 U.S. 517 (1904) – 206
Harisiades v. Shaughnessy, 342 U.S. 580 (1952) – 343, 408–09, 436, 602	Hopkirk v. Bell, 7 U.S. 454 (1806) – 458
Harriman v. ICC, 211 U.S. 407 (1908) – 311	Hopkirk v. Bell, 8 U.S. 164 (1807) – 458
Harrisburg, The, 119 U.S. 199 (1886) – 98	Horner v. United States, 143 U.S. 570 (1892) – 61, 73, 134, 140–41
Harrison v. St. Louis & San Francisco Railroad Co., 232 U.S. 318 (1914) – 305	Hornsby v. United States, 77 U.S. 224 (1870) – 68, 72
Hart v. United States, 391 U.S. 956 (1968) – 326	Hovey v. Elliott, 167 U.S. 409 (1897) – 478
Hartford Fire Insurance Co. v. California, 509 U.S. 764 (1993) – 381, 391–93, 439, 537, 547–50, 600	Hoyt v. Sprague, 103 U.S. 613 (1881) – 100
Hassard v. United States of Mexico, 61 N.Y.S. 939 (N.Y. App. Div. 1899) – 157	Hudson v. Guestier, 10 U.S. 281 (1810) – 25
Hauenstein v. Lynham, 100 U.S. 483 (1880) – 66–67, 76, 81–86, 213, 590	Humphrey’s Executor v. United States, 295 U.S. 602 (1935) – 293
Haver v. Yaker, 76 U.S. 32 (1870) – 64, 70, 80, 87, 195	Huntington v. Attrill, 146 U.S. 657 (1892) – 101, 104, 117–19, 303
Hays v. United States, 175 U.S. 248 (1899) – 72	IIT v. Vencap, Ltd., 519 F.2d 1001 (2d Cir. 1975) – 367
Head Money Cases, The, 112 U.S. 580 (1884) – see Edye v. Robertson	Illinois v. City of Milwaukee, 406 U.S. 91 (1972) – 104, 369, 375
Heim v. McCall, 239 U.S. 175 (1915) – 215	In re Baiz, 135 U.S. 403 (1890) – 130
Hellenic Lines Ltd. v. Rhoditis, 398 U.S. 306 (1970) – 383–84, 438	In re Cooper, 143 U.S. 472 (1892) – 126–28, 141, 163
Henfield’s Case, 11 F. Cas. 1099 (C.C.D. Pa. 1793) – 26	In re Debs, 158 U.S. 564 (1895) – 304
Hepburn v. Griswold, 75 U.S. 603 (1870) – 153	In re Doe, 860 F.2d 40 (2d Cir. 1988) – 372
Herring v. United States, 129 S. Ct. 695 (2009) – 515	In re Estate of Marcos Human Rights Litigation (Hilao v. Marcos), 25 F.3d 1467 (9th Cir. 1994) – 371, 497
Hess v. Pawloski, 274 U.S. 352 (1927) – 236	In re Griffiths, 413 U.S. 717 (1973) – 340
Hilao v. Marcos, 25 F.3d 1467 (9th Cir. 1994) – see In re Estate of Marcos Human Rights Litigation	In re Luis Oteiza y Cortes, 136 U.S. 330 (1890) – 71
Hilton v. Guyot, 159 U.S. 113 (1895) – 95, 98–107, 112–13, 116, 123, 234, 238, 246, 311	In re Microsoft Corp. Antitrust Litigation, 127 F. Supp. 2d 702 (D. Md. 2001) – 537
Hinderlider v. La Plata River & Cherry Creek Ditch Co., 304 U.S. 92 (1938) – 247–52, 256, 294, 357, 359, 503, 597	In re Neagle, 135 U.S. 1 (1890) – 304
Hines v. Davidowitz, 312 U.S. 52 (1941) – 203, 213, 216	In re Ross, 140 U.S. 453 (1891) – see Ross v. McIntyre
Hirabayashi v. United States, 320 U.S. 81 (1943) – 277–78	In re South African Apartheid Litigation, 617 F. Supp. 2d 228 (E.D.N.Y. 2009) – 492
Hirota v. MacArthur, 338 U.S. 197 (1948) – 447, 586	In re Tiburcio Parrott, 1 F. 481 (C.C.D. Cal. 1880) – 69
Hodgson & Thompson v. Bowerbank, 9 U.S. 303 (1810) – 368	In re Yamashita, 327 U.S. 1 (1946) – 322–24, 328–30, 338, 354–55, 372, 422, 429, 431, 569, 574, 586
Holden v. Hardy, 169 U.S. 366 (1898) – 273	Incres Steamship Co. v. International Maritime Workers Union, 372 U.S. 24 (1963) – 384
	INS v. Abudu, 485 U.S. 94 (1988) – 396
	INS v. Aguirre-Aguirre, 526 U.S. 415 (1999) – 329, 338, 396–97, 440

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## Table of Cases

xxv

- INS v. Cardoza-Fonseca, 480 U.S. 421 (1987) – 329, 338, 390, 394–97, 439–40
- INS v. Doherty, 502 U.S. 314 (1992) – 329
- INS v. Stanisic, 395 U.S. 62 (1969) – 329
- INS v. Stevic, 467 U.S. 407 (1984) – 329, 338
- Insular Cases, The – see De Lima v. Bidwell; Downes v. Bidwell; Dorris v. United States; Rassmussen v. United States
- Intel Corp. v. Advanced Micro Devices, Inc., 542 U.S. 241 (2004) – 446, 549, 551
- International Longshoremen's Local v. Ariadne Shipping Co., 397 U.S. 195 (1970) – 384, 386
- International Shoe Co. v. Washington, 326 U.S. 310 (1945) – 236, 406–08, 503
- Iowa v. Illinois, 147 U.S. 1 (1893) – 104–06, 109, 119, 230, 358
- Itel Containers International Corp. v. Huddleston, 507 U.S. 60 (1993) – 341
- J.W. Hampton, Jr., & Co. v. United States, 276 U.S. 394 (1928) – 467
- Jama v. Esmor Correctional Services, Inc., 2008 WL 724337 (D.N.J.) – 377
- Jama v. INS 22 F. Supp., 2d 353 (D.N.J. 1998) – 376–77
- Jama v. INS 343 F. Supp., 2d 338 (D.N.J. 2004) – 376–77
- Japan Line, Ltd. v. County of Los Angeles, 441 U.S. 434 (1979) – 341, 436
- Japan Whaling Association v. American Cetacean Society, 478 U.S. 221 (1986) – 329
- Jecker, Torre & Co. v. Montgomery, 59 U.S. 110 (1856) – 25
- John G. Stevens, The, 170 U.S. 113 (1898) – 115, 254
- Johnson v. Browne, 205 U.S. 309 (1907) – 206, 208, 218, 259, 599
- Johnson v. Eisentrager, 339 U.S. 763 (1950) – 324–27, 338, 355, 422, 431, 562–63, 568–72, 579, 586, 592, 603
- Johnson v. Louisiana, 406 U.S. 399 (1972) – 473
- Johnson v. M'Intosh, 21 U.S. 543 (1823) – 28, 47, 65
- Johnston v. Compagnie Generale Transatlantique, 242 N.Y. 121 (1926) – 234
- Jones v. McMasters, 61 U.S. 8 (1858) – 28
- Jones v. Meehan, 175 U.S. 1 (1899) – 59, 61, 67, 75, 82–83, 134–37, 590
- Jones v. United States, 137 U.S. 202 (1890) – 120, 283–84
- Jordan v. Tashiro, 278 U.S. 123 (1928) – 212–14
- Joseph, The, 12 U.S. 451 (1814) – 33, 46
- Julia, The, 12 U.S. 181 (1814) – 33
- Juilliard v. Greenman, 110 U.S. 421 (1884) – 153, 184–85, 301, 304
- Juragua Iron Co. v. United States, 212 U.S. 297 (1909) – 235, 275–76, 596, 603
- K Mart Corp. v. Cartier, 486 U.S. 281 (1988) – 330
- Kadic v. Karadžić, 70 F.3d 232 (2d Cir. 1995) – 372, 375
- Kane v. New Jersey, 242 U.S. 160 (1916) – 236
- Kansas v. Colorado, 206 U.S. 46 (1907) – 230–31, 233, 237, 239, 248, 250, 256, 294, 305, 503
- Kansas v. Colorado, 185 U.S. 125 (1902) – 230
- Kansas Indians, The, 72 U.S. 737 (1867) – 58, 61, 67, 81–82, 86–87, 137
- Karnuth v. United States, 279 U.S. 231 (1929) – 196, 208, 259
- Keene v. Clark's Heirs, 35 U.S. 291 (1836) – 15
- Kelly v. Hedden, 124 U.S. 196 (1887) – 73
- Kennedy v. Mendoza-Martinez, 372 U.S. 144 (1963) – 343, 411–12, 507
- Kennett v. Chambers, 55 U.S. 38 (1852) – 14–15, 28, 35, 591
- Ker v. Illinois, 119 U.S. 436 (1886) – 61, 70, 82–83, 87, 117–19
- King v. Delaware Insurance Co., 10 U.S. 71 (1810) – 28
- Kinthead v. United States, 150 U.S. 483 (1893) – 58, 80, 82, 84, 213
- Kinsella v. Krueger, 351 U.S. 470 (1956) – 325, 344–45, 427
- Kinsella v. United States ex rel. Singleton, 361 U.S. 234 (1960) – 325, 344–45, 427
- Kirkman v. Hamilton, 21 U.S. 20 (1832) – 30
- Kiyemba v. Obama, 561 F.3d 509 (D.C. Cir. 2009) – 581
- Klaxon Co. v. Stentor Electric Manufacturing Co., 313 U.S. 487 (1941) – 245–46, 253–55, 378, 503
- Kline v. Kaneko, 685 F. Supp. 386 (S.D.N.Y. 1988) – 406
- Knickerbocker Ice Co. v. Stewart, 253 U.S. 149 (1920) – 233, 597
- Knight v. Florida, 528 U.S. 990 (1999) – 346
- Knight v. U.S. Land Association, 142 U.S. 161 (1891) – 68
- Kolovrat v. Oregon, 366 U.S. 187 (1961) – 217, 336, 340–41, 425, 427, 572, 594
- Korematsu v. United States, 323 U.S. 214 (1944) – 277–78, 583
- Kruman v. Christie's Int'l PLC, 129 F. Supp., 2d 620 (S.D.N.Y. 2001) – 537
- Kuhn v. Fairmont Coal Co., 215 U.S. 349 (1910) – 228–29



La Abra Silver Mining Co. v. United States, 175 U.S. 423 (1899) – 60, 64, 71, 73–74, 79, 120, 461–62	Lotus, The (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10 – 260, 552
La Republique Francaise v. Saratoga Vichy Spring Co., 191 U.S. 427 (1903) – 205	Loughborough v. Blake, 18 U.S. 317 (1820) – 271
Lafontant v. Aristide, 844 F. Supp. 128 (E.D.N.Y. 1994) – 372	Louisiana v. Mississippi, 466 U.S. 96 (1984) – 358
LaGrand (Ger. v. U.S.), 1999 I.C.J. 9 (Mar. 3) – 453	Luckenbach Steamship Co. v. United States, 280 U.S. 173 (1930) – 210
LaGrand (Ger. v. U.S.), 2001 I.C.J. 466 (June 27) – 455, 457	Ludwig v. Western Union Telegraph Co., 216 U.S. 146 (1910) – 305
Lake Carriers’ Association v. MacMullan, 406 U.S. 498 (1972) – 351	Lujan v. Defenders of Wildlife, 504 U.S. 555 (1992) – 388
Lamar v. Browne, 92 U.S. 187 (1876) – 131	Mackenzie v. Hare, 239 U.S. 299 (1915) – 302
Late Corporation of the Church of Jesus Christ of Latter-Day Saints v. United States, 136 U.S. 1 (1889) – 300	MacLeod v. United States, 229 U.S. 416 (1913) – 242, 257–58, 260, 596, 599
Lattimer v. Poteet, 39 U.S. 4 (1840) – 15	Maggie Hammond, The, 76 U.S. 435 (1870) – 94, 106
Lau Ow Bew v. United States, 144 U.S. 47 (1892) – 69, 74, 81	Main, The v. Williams, 152 U.S. 122 (1894) – 130
Lauritzen v. Larsen, 345 U.S. 571 (1953) – 133, 381–87, 392–93, 438, 598, 600	Maiorano v. Baltimore & Ohio Railroad Co., 213 U.S. 268 (1909) – 203, 215
Lawrence v. Texas, 539 U.S. 558 (2003) – 1, 3, 445, 492, 495, 507–12, 516, 518, 521–23, 525, 588	Malek Adhel, The, 43 U.S. 410 (1844) – 25
Le Louis, 165 Eng. Rep. 1464 (1817) – 36, 536–37, 543	Mali v. Keeper of the Common Jail (Wildenhus’s Case), 120 U.S. 1 (1887) – 64, 70, 79–80, 86–87, 100–02, 104–06, 110, 123, 129, 385
Leavenworth, Lawrence, & Galveston Railroad Co. v. United States, 92 U.S. 733 (1876) – 74, 134–37	Marbury v. Madison, 5 U.S. 137 (1803) – 83, 168, 469
Lee Gon Yung v. United States, 185 U.S. 306 (1902) – 206	Marianna Flora, The, 24 U.S. 1 (1826) – 25, 32, 584
Lee Lung v. Patterson, 186 U.S. 168 (1902) – 206	Martin v. Hunter’s Lessee, 14 U.S. 304 (1816) – 571
Lee v. Madigan, 358 U.S. 228 (1959) – 331	Martin v. Waddell’s Lessee, 41 U.S. 367 (1842) – 29
Leegin Creative Leather Products, Inc. v. PSKS, Inc., 551 U.S. 877 (2007) – 557	Martinez v. City of Los Angeles, 141 F.3d 1373 (9th Cir. 1998) – 377
Legal Tender Cases, 79 U.S. 457 (1871) – 152–53, 184, 283–84, 303–04, 601	Mary Ford, The, 3 U.S. 188 (1796) – 25
Lem Moon Sing v. United States, 158 U.S. 538 (1895) – 134–35, 141	Maryland v. West Virginia, 217 U.S. 1 (1910) – 231, 239
Leroux v. Brown, 138 Eng. Rep. 1119 (C.P. 1852) – 536	Mason v. The Ship Blaireau, 6 U.S. 240 (1804) – 25
Lessee of Pollard’s Heirs v. Kibbe, 39 U.S. 353 (1840) – 16	Massachusetts v. Laird, 400 U.S. 886 (1970) – 326
Libby v. Clark, 118 U.S. 250 (1886) – 82	Matsushita Electronic Industrial Co. v. Zenith Radio Corp., 475 U.S. 574 (1986) – 351
Little v. Barreme, 6 U.S. 170 (1804) – 585	Matter of McMullen, 19 I & N Dec. 90 (B.I.A. 1984) – 396
Liverpool & Great Western Steam Co. v. Phenix Insurance. Co., 129 U.S. 397 (1889) – 97, 110, 115	Matthews v. McStea, 91 U.S. 7 (1875) – 117
Lochner v. New York, 198 U.S. 45 (1905) – 229, 273	Maul v. United States, 274 U.S. 501 (1927) – 203
Loewen Group, Inc. v. United States, 7 ICSID Rep. 442 (2003) – 554	Maximov v. United States, 373 U.S. 49 (1963) – 328, 338
Lottawanna, The, 88 U.S. 558 (1874) – 95–96, 99–100, 106, 114–16, 118–120, 123, 232	McCulloch v. Maryland, 17 U.S. 316 (1819) – 162, 280, 283, 300, 303, 601

Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## Table of Cases

xxvii

- McCulloch v. Sociedad Nacional de Marineros de Honduras, 372 U.S. 10 (1963) – 329, 331, 384–89, 392, 398, 438, 600
- McDonogh v. Millaudon, 44 U.S. 693 (1845) – 20
- McKesson Corp. v. Islamic Republic of Iran, 539 F.3d 485 (D.C. Cir. 2008) – 464
- Medellin v. Dretke, 371 F.3d 270 (5th Cir. 2004) – 454
- Medellin v. Dretke, 544 U.S. 660 (2005) – 328, 454
- Medellin v. Dretke, 543 U.S. 1032 (2004) – 443–44
- Medellin v. Texas, 552 U.S. 491 (2008) – 1, 3, 67, 203, 217, 288, 328, 443–44, 451–65, 468–78, 566, 587, 594
- Medtronic, Inc. v. Lohr, 518 U.S. 470 (1996) – 216
- Menard's Heirs v. Massey, 49 U.S. 293 (1850) – 20
- Microsoft Corp. v. AT&T Corp., 550 U.S. 437 (2007) – 446, 536, 540, 548
- Mighell v. Sultan of Jahore, 1 Q.B. 149 (Eng. 1894) – 120
- Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14 (June 27) – 455, 496
- Miller v. The Ship Resolution, 2 U.S. 1 (Fed. Ct. App. 1781) – 37
- Miller v. United States, 78 U.S. 268 (1870) – 145–47, 182–83, 278, 565, 584, 603
- Milliken v. Pratt, 125 Mass. 374 (1878) – 262
- Ministry of Defense & Support for the Armed Forces of the Islamic Republic of Iran v. Elahi, 129 S. Ct. 1732 (2009) – 446
- Ministry of Defense & Support for Armed Forces of Islamic Republic of Iran v. Elahi, 546 U.S. 450 (2006) – 446
- Missouri v. Holland, 252 U.S. 416 (1920) – 192–93, 199–202, 286–87, 292, 310, 466, 591
- Missouri v. Illinois, 200 U.S. 496 (1906) – 230, 232, 305
- Missouri v. Iowa, 48 U.S. 660 (1849) – 31
- Mitchell v. Furman, 180 U.S. 420 (1901) – 203, 215
- Mitchell v. Trawler Racer, Inc., 362 U.S. 539 (1969) – 350
- Mitchell v. United States, 386 U.S. 972 (1967) – 326
- Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (1985) – 337, 350
- Montoya v. United States, 180 U.S. 261 (1985) – 312
- Moodie v. The Ship Phoebe Anne, 3 U.S. 319 (1796) – 15
- Moore v. Steinbach, 127 U.S. 70 (1888) – 72
- Mora v. McNamara, 389 U.S. 934 (1967) – 326
- Morrison v. National Australia Bank Ltd., 130 S. Ct. 2869 (2010) – 1, 445, 533, 548, 550–51, 554–55
- Morton v. Mancari, 417 U.S. 535 (1974) – 306
- Moser v. United States, 341 U.S. 41 (1951) – 338, 342–43
- Moses v. National Bank of Lawrence County, 149 U.S. 298 (1893) – 234
- Mossman v. Higginson, 4 U.S. 12 (1800) – 368
- Muller v. Oregon, 208 U.S. 412 (1908) – 272–73, 284, 297
- Munaf v. Geren, 553 U.S. 674 (2008) – 447, 512
- Murray v. Schooner Charming Betsy, 6 U.S. 64 (1804) – 32, 37–40, 44, 46, 49–50, 74, 79, 117, 124, 129–41, 161, 175–76, 208–09, 259, 299, 329, 380–401, 414, 434–41, 455, 458, 484–86, 527–28, 534–37, 545, 547–48, 551–52, 584, 590, 595, 598–600
- Myers v. United States, 272 U.S. 52 (1926) – 293
- Nagle v. Loi Ha, 275 U.S. 475 (1928) – 207
- Nebraska v. Iowa, 143 U.S. 356 (1892) – 359
- Neely v. Henkel, 180 U.S. 109 (1901) – 200, 270, 286, 310, 591
- Nereide, The, 13 U.S. 388 (1815) – 33, 35, 46, 115, 369, 574, 585, 596, 598
- Nevada Department of Human Resources v. Hibbs, 538 U.S. 721 (2003) – 306
- New England Mutual Marine Insurance Co. v. Dunham, 78 U.S. 1 (1871) – 94–95, 106–07
- New Hampshire v. Louisiana, 108 U.S. 76 (1883) – 104, 106, 119
- New Jersey v. Delaware, 291 U.S. 361 (1934) – 239, 494
- New Jersey v. New York, 238 U.S. 336 (1931) – 231
- New Jersey v. New York, 30 U.S. 284 (1831) – 31
- New Jersey v. New York, 523 U.S. 767 (1998) – 359, 430
- New Orleans v. De Armas, 34 U.S. 224 (1835) – 15
- New York Central Railroad Co. v. Chisholm, 268 U.S. 29 (1925) – 263, 600
- New York Central Railroad Co. v. Winfield, 244 U.S. 147 (1917) – 293
- New York Indians v. United States, 170 U.S. 1 (1898) – 61, 72, 74, 82, 86
- New York Life Insurance Co. v. Dodge, 246 U.S. 357 (1918) – 236, 597

New York Life Insurance Co. v. Head, 234 U.S. 149 (1914) – 236, 305	Panama Refining Co. v. Ryan, 293 U.S. 388 (1935) – 197
New York Life Insurance Co. v. Hendren, 92 U.S. 286 (1876) – 115, 117–18, 233, 251, 595	Panama, The, 176 U.S. 535 (1900) – 91, 104, 107, 111, 122
Nielson v. Johnson, 279 U.S. 47 (1929) – 203, 210, 212, 214, 216–17, 591	Paquete Habana, The, 175 U.S. 677 (1900) – 90–91, 98–99, 103–13, 116–17, 120–23, 132, 171–73, 175–76, 180, 226–30, 237–42, 246–47, 251–56, 307, 365–70, 373–74, 377, 481, 483–84, 489, 491, 497, 564, 569, 574, 585–86, 595–96
Nishimura Ekiu v. United States, 142 U.S. 651 (1892) – 154, 184–85, 301, 312, 601	Pasquantino v. United States, 544 U.S. 349 (2005) – 445, 548–51
NLRB v. Catholic Bishop of Chicago, 440 U.S. 490 (1979) – 401	Passenger Cases, The, 48 U.S. 283 (1849) – 14, 42–43, 48, 59
North American Commercial Co. v. United States, 171 U.S. 110 (1898) – 58	Patsone v. Pennsylvania, 232 U.S. 138 (1914) – 205, 215
Northern Pacific Railway Co. v. Dixon, 194 U.S. 338 (1904) – 229	Penhallow v. Doane’s Administrators, 3 U.S. 54 (1795) – 24
Northern Securities Co. v. United States, 193 U.S. 197 (1904) – 261	Pennock v. Commisioners, 103 U.S. 44 (1881) – 87
Norwich Co. v. Wright, 80 U.S. 104 (1872) – 130	Pennoyer v. Neff, 95 U.S. 714 (1878) – 149, 151–52, 155, 161, 163, 236, 406–08, 595, 604
Nyquist v. Mauclet, 432 U.S. 1 (1977) – 340	Pennsylvania Fire Insurance Co. of Philadelphia v. Gold Issue Mining & Milling Co., 243 U.S. 93 (1917) – 236
O’Connor v. United States, 479 U.S. 27 (1986) – 328, 337–38	Pennsylvania Railroad Co. v. Hughes, 191 U.S. 477 (1903) – 228, 251
O’Reilly de Camara v. Brooke, 142 F. 858 (S.D.N.Y. 1906) – 241–42, 253	Perez v. Brownell, 356 U.S. 44 (1958) – 343–44, 409, 411–12, 435–36, 602
O’Reilly de Camara v. Brooke, 209 U.S. 45 (1908) – 241–42, 253	Perkins v. Elg, 307 U.S. 325 (1939) – 205, 210–11, 218, 589
Oetjen v. Central Leather Co., 246 U.S. 297 (1918) – 196, 237, 239	Permanent Mission of India v. City of New York, 551 U.S. 193 (2007) – 446
Ohio ex rel. Clarke v. Deckebach, 274 U.S. 392 (1927) – 215	Peterhoff, The, 72 U.S. 28 (1867) – 80, 97, 104–05, 110–11, 574
Ohio v. Wyandotte Chemicals Corp., 401 U.S. 493 (1971) – 351	Petersen v. Iowa ex rel. State Treasurer, 245 U.S. 170 (1917) – 205, 211
Oldfield v. Marriott, 51 U.S. 146 (1851) – 19, 59	Pfizer, Inc. v. Government of India, 434 U.S. 308 (1978) – 331, 423, 553
Oliver American Trading Co. v. United States of Mexico, 264 U.S. 440 (1924) – 234, 244	Phillips v. Eyre, [1870] L.R. 6 Q.B. 1 (U.K.) – 262
Olympic Airways v. Husain, 540 U.S. 644 (2004) – 444	Pigeon River Improvement, Slide & Boom Co. v. Charles W. Cox, Ltd., 291 U.S. 138 (1934) – 207–10, 259, 590, 599
Ornelas v. Ruiz, 161 U.S. 502 (1896) – 71, 83	Pinkerton v. Ledoux, 129 U.S. 346 (1889) – 72
Osborn v. Bank of the United States, 22 U.S. 738 (1824) – 404	Place v. Norwich & New York Transportation Co., 118 U.S. 468 (1886) – 106, 109, 116, 130
Osceola, The, 189 U.S. 158 (1903) – 239	Plessy v. Ferguson, 163 U.S. 537 (1896) – 305
Otis v. Parker, 187 U.S. 606 (1908) – 311	Ponce v. Roman Catholic Apostolic Church, 210 U.S. 296 (1908) – 205, 236
Owings v. Norwood’s Lessee, 9 U.S. 344 (1809) – 14, 50	Poole v. Fleegeer’s Lessee, 36 U.S. 185 (1837) – 15, 41
Oyama v. California, 332 U.S. 633 (1948) – 339, 426	Powerex Corp. v. Reliant Energy Services, Inc., 551 U.S. 224 (2007) – 446
Pacific Employers Insurance Co. v. Industrial Accident Commission, 306 U.S. 493 (1939) – 236	Powers v. Comly, 101 U.S. 789 (1879) – 61, 74, 83
Palko v. Connecticut, 302 U.S. 319 (1937) – 274–75, 284	
Pam-to-Pee v. United States, 148 U.S. 691 (1893) – 72	
Panama Canal Zone v. Grace Line, Inc., 356 U.S. 309 (1958) – 325	



Cambridge University Press

978-0-521-11956-6 - International Law in the U.S. Supreme Court: Continuity and Change

David L. Sloss, Michael D. Ramsey and William S. Dodge

Frontmatter

[More information](#)

## Table of Cases

xxix

- Prepaid Postsecondary Education Expense Board v. College Savings Bank, 527 U.S. 627 (1999) – 306
- Presbyterian Church of Sudan v. Talisman Energy, Inc., 582 F.3d 244 (2d Cir. 2009) – 492, 498
- Prigg v. Pennsylvania, 41 U.S. 539 (1842) – 16, 19, 49
- Printz v. United States, 521 U.S. 898, 976 (1997) – 514
- Prize Cases, The, 67 U.S. 635 (1863) – see Brig Amy Warwick, The
- Pullman Co. v. Kansas, 216 U.S. 56 (1910) – 305
- Quality King Distributors, Inc. v. L'Anza Research International, Inc., 523 U.S. 135 (1998) – 331
- Queen, The v. Jameson (1896) 2 Q.B. – 425 382
- Rabang v. Boyd, 353 U.S. 427 (1957) – 343
- Railey v. United States, 232 U.S. 310 (1914) – 207
- Ralli v. Troop, 157 U.S. 386 (1895) – 98, 106
- Rapid, The, 12 U.S. 155 (1814) – 33, 46
- Rasmussen v. United States, 197 U.S. 516 (1905) – 296
- Rasul v. Bush, 542 U.S. 466 (2004) – 447, 561–63, 567–71, 578, 580, 583, 587
- Rasul v. Myers, 512 F.3d 644 (D.C. Cir. 2008) – 376
- Ray v. Atlantic Richfield Co., 435 U.S. 151 (1978) – 341
- Reichart v. Felps, 73 U.S. 160 (1868) – 59, 75
- Reid v. Covert, 354 U.S. 1 (1957) – 325, 344–46, 419, 427, 468, 580, 602
- Renard, The, 165 Eng. Rep. 51 (Adm. 1778) – 108
- Republic of Argentina v. Weltover, Inc., 504 U.S. 607 (1992) – 404–05
- Republic of Austria v. Altmann, 541 U.S. 677 (2004) – 446–47, 552
- Republic of Iraq v. Beaty, 129 S. Ct. 2183 (2009) – 446
- Republic of Mexico v. Hoffman, 324 U.S. 30 (1945) – 238, 243, 597
- Republic of Philippines v. Marcos, 665 F. Supp. 793 (N.D. Cal. 1987) – 406
- Republic of Philippines v. Pimentel, 553 U.S. 851 (2008) – 446
- Request for Interpretation of the Judgment of 31 March 2004 in Avena and Other Mexican Nationals (Mex. v. U.S.), 2008 I.C.J. 311 (July 16) – 460
- Request for Interpretation of the Judgment of 31 March 2004 in Avena and Other Mexican Nationals (Mex. v. U.S.), 2009 I.C.J. 139 (January 19) – 460
- Respublica v. De Longchamps, 1 U.S. 11 (1784) – 11, 369
- Reynolds v. United States, 98 U.S. 145 (1879) – 311
- Rhineland v. Insurance Co. of Pennsylvania, 8 U.S. 29 (1807) – 28
- Rhode Island v. Massachusetts, 37 U.S. 657 (1838) – 22, 31, 230, 430, 595
- Ribas y Hijo v. United States, 194 U.S. 315 (1904) – 206–07
- Ricaud v. American Metal Co., 246 U.S. 304 (1918) – 237, 239
- Rice v. Sante Fe Elevator Corp., 331 U.S. 218 (1947) – 216
- Rice v. Sioux City Memorial Park Cemetery, Inc., 349 U.S. 70 (1955) – 339
- Rios v. Marshall, 530 F. Supp. 351 (S.D.N.Y. 1981) – 406
- Roach v. United States, 406 U.S. 935 (1972) – 327
- Roanoke, The, 189 U.S. 185 (1903) – 232
- Robert C. Herd & Co. v. Krawill, 359 U.S. 297 (1959) – 349
- Robertson v. Baldwin, 165 U.S. 275 (1897) – 106–07, 109
- Rocca v. Thompson, 223 U.S. 317 (1912) – 211–12
- Rochin v. California, 342 U.S. 165 (1952) – 431
- Rodriguez-Fernandez v. Wilkinson, 505 F. Supp. 787 (D. Kan. 1980) – 377
- Rodriguez-Fernandez v. Wilkinson, 654 F. 2d 1382 (10th Cir. 1981) – 377
- Romero v. International Terminal Operating Co., 358 U.S. 354 (1959) – 383, 392, 438
- Roper v. Simmons, 543 U.S. 551 (2005) – 1, 3, 439, 445, 507–16, 518, 520–29, 588
- Rose v. Himely, 8 U.S. 241 (1808) – 25, 35, 38
- Ross v. McIntyre (In re Ross), 140 U.S. 453 (1891) – 56, 61, 66, 85, 128–29, 149–50, 161, 217, 271, 297, 425, 602
- Roth v. United States, 354 U.S. 476 (1957) – 410
- Ruhrigas AG v. Marathon Oil Co., 526 U.S. 574 (1999) – 350
- Rutgers v. Waddington (N.Y. Mayor's Ct. 1784) – 10–11, 37, 185
- Sale v. Haitian Centers Council, Inc., 509 U.S. 155 (1993) – 328–30, 336, 338, 381, 387–88, 390–92, 421–23, 439–40

Samantar v. Yousuf, 130 S. Ct. 2278 (2010) – 376, 446	Sosa v. Alvarez-Machain, 542 U.S. 692 (2004) – 1, 3, 357, 359, 366–67, 373, 375, 429, 434, 444–45, 481–504, 588, 598–99
Sanchez-Espinoza v. Reagan, 770 F.2d 202 (D.C. Cir. 1985) – 376	Soulard v. United States, 29 U.S. 511 (1830) – 16
Sanchez-Llamas v. Oregon, 548 U.S. 331 (2006) – 1, 3, 67, 70, 83, 328, 429, 443–44, 451–65, 468–78, 587, 594	Southern Pacific Co. v. Jensen, 244 U.S. 205 (1917) – 119, 231–33, 237, 239, 244–56, 289, 293, 305, 489, 503, 597
Sandberg v. McDonald, 248 U.S. 185 (1918) – 263, 294, 600	Southern Railway Co. v. Reid, 222 U.S. 424 (1912) – 305
Santissima Trinidad, The, 20 U.S. 283 (1822) – 25, 40, 47, 94, 403	Spalding v. Chandler, 160 U.S. 394 (1896) – 82
Santovincenzo v. Egan, 284 U.S. 30 (1931) – 198, 209–13	Sparenburgh v. Bannatyne, 126 Eng. Rep. 837 (1797) – 569–70
Sapphire, The, 78 U.S. 164 (1871) – 97, 100	Spector v. Norwegian Cruise Line Ltd., 545 U.S. 119 (2005) – 446, 537, 549, 551–52
Scherk v. Alberto-Culver Co., 417 U.S. 506 (1974) – 350	Spies v. Illinois, 123 U.S. 131 (1887) – 70–71
Schooner Exchange, The v. McFaddon, 11 U.S. 116 (1812) – 32, 37, 39–40, 46, 125, 156–57, 260, 447	Sprott v. United States, 87 U.S. 459 (1874) – 104, 106
Schneider v. Rusk, 377 U.S. 163 (1964) – 343–44, 411	St. Clair v. United States, 154 U.S. 134 (1894) – 125
Scindia Steam Navigation Co. v. De Los Santos, 451 U.S. 156 (1981) – 325, 347	St. Lawrence, The, 66 U.S. 522 (1861) – 118
Scotia, The, 81 U.S. 170 (1872) – 97–98, 104, 113, 123, 374, 595–96	Standard Dredging Corp. v. Murphy, 319 U.S. 306 (1943) – 248
Scott v. McNeal, 154 U.S. 34 (1894) – 152	Stanford v. Kentucky, 492 U.S. 361 (1989) – 346, 413–14, 437
Scotland, The, 105 U.S. 24 (1882) – 106–07, 116	State Oil Co. v. Khan, 522 U.S. 3 (1997) – 557
Second Russian Insurance Co. v. Miller, 268 U.S. 552 (1925) – 237–38	Steel Seizure, 343 U.S. 579 (1952) – see Youngstown Sheet & Tube Co. v. Sawyer
Sei Fujii v. California, 217 P.2d 481 (Cal. Ct. App. 1950) – 426	Steele v. Bulova Watch Co., 344 U.S. 280 (1952) – 330, 388, 423, 600
Sei Fujii v. State, 242 P.2d 617 (Cal. 1952) – 426, 428	Stephens v. Cherokee Nation, 174 U.S. 445 (1899) – 73
Seminole Tribe of Florida v. Florida, 517 U.S. 44 (1996) – 473	Stoddard v. Chambers, 43 U.S. 284 (1844) – 15
Shaffer v. Heitner, 433 U.S. 186 (1977) – 407–08	Stoneridge Investment Partners, LLC v. Scientific-Atlanta, Inc., 552 U.S. 148 (2008) – 555
Shanks v. Dupont, 28 U.S. 242 (1830) – 590	Strother v. Lucas, 37 U.S. 410 (1838) – 16, 20
Sherer v. Sherer, 334 U.S. 343 (1948) – 348	Sugarman v. Dougall, 413 U.S. 634 (1973) – 340
Siren, The, 80 U.S. 389 (1871) – 114	Sullivan v. Kidd, 254 U.S. 433 (1921) – 202, 208–12, 217
Skiriotes v. Florida, 313 U.S. 69 (1941) – 255, 293	Sumitomo Shoji America, Inc. v. Avagliano, 457 U.S. 176 (1982) – 217, 336, 338, 348, 391, 425, 572, 593
Slater v. Mexican National Railroad Co., 194 U.S. 120 (1904) – 262	Summa Corp. v. California, 466 U.S. 198 (1984) – 349
Slidell v. Grandjean, 111 U.S. 412 (1883) – 72	Supreme Council of the Royal Arcanum v. Green, 237 U.S. 531 (1915) – 305
Small v. United States, 544 U.S. 385 (2005) – 445, 540, 547–51	Swift v. Tyson, 41 U.S. 1 (1842) – 27–30, 48, 114, 227–35, 243–51, 253, 503, 595–97
Smith v. Stevens, 77 U.S. 321 (1870) – 134–37	Talbot v. Jansen, 3 U.S. 133 (1795) – 15, 23–25, 37, 584, 594
Smith v. United States, 151 U.S. 50 (1894) – 74	Talbot v. Seeman, 5 U.S. 1 (1801) – 37, 46, 535
Smith v. United States, 507 U.S. 197 (1993) – 331, 388–90, 439–40, 540	Taylor v. Morton, 23 F. Cas. 784 (C.C. Mass. 1855) – 18–19, 73–74, 601
Société Nationale Industrielle Aérospatiale v. U.S. District Court, 482 U.S. 522 (1987) – 336–37, 347	Taylor v. Morton, 67 U.S. 481 (1863) – 71

Tel-Oren v. Libyan Arab Republic, 726 F.2d 774 (D.C. Cir. 1984) – 369–72, 375, 497	United States v. American Sugar Refining Co., 202 U.S. 563 (1906) – 195
Terlinden v. Ames, 184 U.S. 270 (1902) – 196, 202–03, 205	United States v. American Tobacco Co., 221 U.S. 106 (1911) – 263
Terrace v. Thompson, 263 U.S. 197 (1923) – 214–15	United States v. Arjona, 120 U.S. 479 (1887) – 147–48, 516, 597
Texaco Inc. v. Dagher, 547 U.S. 1 (2006) – 557	United States v. Arredondo, 31 U.S. 691 (1832) – 17, 34, 195
Texas v. Louisiana, 410 U.S. 702 (1973) – 349, 358	United States v. Auguisola, 68 U.S. 352 (1864) – 61, 68, 72, 82
Texas v. Louisiana, 426 U.S. 465 (1976) – 349	United States v. Belmont, 301 U.S. 324 (1937) – 192, 218, 220–23, 249–50, 256, 287, 293, 300, 504, 592, 602
Thirty Hogsheads of Sugar v. Boyle, 13 U.S. 191 (1815) – 33, 36, 46, 114	United States v. Bowman, 260 U.S. 94 (1922) – 267–69
Thomas v. Gay, 169 U.S. 264 (1898) – 60, 73, 76, 134–38	United States v. California, 332 U.S. 19 (1947) – 302, 358
Thompson v. Oklahoma, 487 U.S. 815 (1988) – 346, 413–14, 437, 526	United States v. California, 381 U.S. 139 (1965) – 302, 349, 358
Thomsen v. Cayser, 243 U.S. 66 (1917) – 263	United States v. California, 382 U.S. 448 (1966) – 302
Timberlane Lumber Co. v. Bank of America, 549 F.2d 597 (9th Cir. 1976) – 391–92	United States v. California, 436 U.S. 32 (1978) – 302
Todok v. Union State Bank of Harvard, Nebraska, 281 U.S. 449 (1930) – 212–14	United States v. California, 447 U.S. 1 (1980) – 302
Toll v. Moreno, 458 U.S. 1 (1982) – 341	United States v. Castellero, 67 U.S. 17 (1863) – 90
Torres v. Mullin, 540 U.S. 1035 (2003) – 328	United States v. Chaves, 159 U.S. 452 (1895) – 68, 72, 80
Torres v. State, 120 P.3d 1184 (Okla. 2005) – 454	United States v. Choctaw Nation, 179 U.S. 494 (1900) – 60, 72, 82, 90
Townsend v. Greeley, 72 U.S. 326 (1867) – 72	United States v. Coolidge, 14 U.S. 415 (1816) – 27
Trans World Airlines, Inc. v. Franklin Mint Corp., 466 U.S. 243 (1984) – 337, 347, 393, 399	United States v. Curtiss-Wright Export Corp., 14 F. Supp. 230 (S.D.N.Y. 1936) – 279
Transportes Maritimos do Estado v. Almeida, 265 U.S. 104 (1924) – 234	United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936) – 192, 195, 197–98, 220–21, 242–43, 249–50, 252, 256, 279–84, 290, 293, 296, 300–02, 305–06, 409, 436, 504, 596, 601
Trop v. Dulles, 356 U.S. 86 (1958) – 343, 410–12, 435, 513, 521, 604	United States v. d’Auterive, 51 U.S. 609 (1851) – 16
Truax v. Raich, 239 U.S. 33 (1915) – 339	United States v. Diekelman, 92 U.S. 520 (1876) – 101
Tucker v. Alexandroff, 183 U.S. 424 (1902) – 197, 205, 210–13, 219, 224, 240–41, 590	United States v. Dion, 476 U.S. 734 (1986) – 325
Twining v. New Jersey, 211 U.S. 78 (1908) – 273–75, 284, 297	United States v. Flores, 289 U.S. 137 (1933) – 268
Underhill v. Hernandez, 168 U.S. 250 (1897) – 119–20, 157–58, 237, 503, 595	United States v. Florida, 425 U.S. 791 (1975) – 349
United States v. Acosta, 42 U.S. 24 (1843) – 17	United States v. Forty-Three Gallons of Whiskey, 108 U.S. 491 (1883) – 74, 134–37
United States v. Alaska, 422 U.S. 184 (1975) – 349	United States v. Forty-Three Gallons of Whiskey, 93 U.S. 188 (1876) – 64, 76
United States v. Alaska, 503 U.S. 569 (1992) – 349	United States v. Fullard-Leo, 331 U.S. 256 (1947) – 349
United States v. Alaska, 521 U.S. 1 (1980) – 349	
United States v. Aluminum Co. of America, 148 F.2d 416 (2d Cir. 1945) – 265–67, 269, 295, 391–93, 419, 438–39, 539, 549	
United States v. Alvarez-Machain, 504 U.S. 655 (1992) – 1, 253, 327–28, 338, 357, 359, 366, 373, 421–23, 429, 434, 444, 481–86, 488, 491, 493, 494, 496, 499, 588, 598	

United States v. Furlong, 18 U.S. 184 (1820) – 39	United States v. McCullagh, 221 F. 288 (D. Kan. 1915) – 199
United States v. Green, 185 U.S. 256 (1902) – 206	United States v. Microsoft Corp., 253 F.3d 34 (D.C. Cir. 2001) – 557
United States v. Gue Lim, 176 U.S. 459 (1900) – 61, 69, 74, 81, 134, 155, 590	United States v. Minnesota, 270 U.S. 181 (1926) – 195–96, 198
United States v. Guillem, 52 U.S. 47 (1851) – 25	United States v. Moreno, 68 U.S. 400 (1864) – 68, 72, 81
United States v. Guy W. Capps, Inc., 204 F.2d 655 (4th Cir. 1953) – 333	United States v. Navarre, 173 U.S. 77 (1899) – 61, 72, 84
United States v. Guy W. Capps, Inc., 348 U.S. 296 (1955) – 333, 424	United States v. Nord Deutscher Lloyd, 223 U.S. 512 (1912) – 263
United States v. Hathaway, 71 U.S. 404 (1867) – 70, 83–84	United States v. O'Donnell, 303 U.S. 501 (1938) – 208, 217, 259
United States v. Hudson & Goodwin, 11 U.S. 32 (1812) – 27	United States v. Old Settlers, 148 U.S. 427 (1893) – 72
United States v. Jones, 109 U.S. 513 (1883) – 153–54, 601	United States v. Pacific & Arctic Railway Co., 228 U.S. 87 (1913) – 263
United States v. Joseph, 94 U.S. 614 (1877) – 72	United States v. Padelford, 76 U.S. 531 (1870) – 131–32, 183, 585, 599
United States v. Jung Ah Lung, 124 U.S. 621 (1888) – 59, 70, 78	United States v. Palmer, 16 U.S. 610 (1818) – 39
United States v. Kagama, 118 U.S. 375 (1886) – 60, 184–85	United States v. The Paquete Habana, 189 U.S. 453 (1903) – 232, 241
United States v. Klein, 80 U.S. 128 (1872) – 183	United States v. Payne, 264 U.S. 446 (1924) – 208, 259
United States v. Klintock, 18 U.S. 144 (1820) – 39	United States v. Percheman, 32 U.S. 51 (1833) – 16, 23, 28, 59, 460
United States v. The La Jeune Eugenie, 26 F. Cas. 832 (C.C.D. Mass. 1822) – 25, 35–37, 92, 170–71, 374, 488	United States v. Peters, 3 U.S. 121 (1795) – 15, 24, 37
United States v. Lane, 75 U.S. 185 (1869) – 131	United States v. Pink, 315 U.S. 203 (1942) – 192, 216, 218, 221–23, 249–50, 287, 306, 424, 592
United States v. Lee, 106 U.S. 196 (1882) – 156, 158–62, 301	United States v. Quimby, 71 U.S. 408 (1867) – 70, 84
United States v. Locke, 529 U.S. 89 (2000) – 342	United States v. Rauscher, 119 U.S. 407 (1886) – 60–61, 68, 76, 79–84, 86, 104–06, 109–110, 209, 240, 589, 591
United States v. Louisiana, 363 U.S. 1 (1960) – 337, 349	United States v. Reynes, 50 U.S. 127 (1850) – 20
United States v. Louisiana, 394 U.S. 11 (1969) – 337, 349	United States v. Rice, 17 U.S. 246 (1819) – 38
United States v. Louisiana, 446 U.S. 253 (1980) – 349	United States v. Ritchie, 58 U.S. 525 (1855) – 34
United States v. Louisiana, 394 U.S. 1 (1969) – 349	United States v. Rodgers, 150 U.S. 249 (1893) – 104–06, 125–27
United States v. Louisiana, 470 U.S. 93 (1985) – 337, 349, 358	United States v. Rogers, 45 U.S. 567 (1846) – 29, 47
United States v. Louisiana, 389 U.S. 155 (1967) – 349	United States v. Roselius, 56 U.S. 31 (1853) – 20
United States v. Louisiana, 485 U.S. 88 (1988) – 349	United States v. Sandoval, 167 U.S. 278 (1897) – 72
United States v. Lynde, 78 U.S. 632 (1871) – 84	United States v. Sandoval, 231 U.S. 28 (1913) – 311
United States v. Macintosh, 283 U.S. 605 (1931) – 276, 278, 311	United States v. Santa Fe, 165 U.S. 675 (1897) – 72
United States v. Maine, 469 U.S. 504 (1985) – 349	United States v. Schenk, 249 U.S. 47 (1919) – 583
United States v. Maine, 475 U.S. 89 (1986) – 337, 349, 358	United States v. Schooner Peggy, 5 U.S. 103 (1801) – 14, 18, 46, 59, 585, 589–90
United States v. McBratney, 104 U.S. 621(1882) – 73–74, 87, 134–36, 138	

Table of Cases

xxxiii

United States v. Shauver, 214 F. 154 (E.D. Ark. 1914) – 199	Vimar Seguros v. M/V Sky Reefer, 515 U.S. 528 (1995) – 349–50
United States v. Sisal Sales Corp., 274 U.S. 268 (1927) – 263–66, 269, 296	Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694 (1988) – 348
United States v. Smith, 18 U.S. 153 (1820) – 33–34, 36, 255–56, 496	W.S. Kirkpatrick & Co. v. Environmental Tectonics Corp., 493 U.S. 400 (1990) – 364–65
United States v. Spelar, 338 U.S. 217 (1949) – 330	Wagnor v. Evans, 170 U.S. 588 (1898) – 73
United States v. Standard Oil Co., 221 U.S. 1 (1911) – 557	Ward v. Race Horse, 163 U.S. 504 (1896) – 70, 73–74, 82, 87, 134–36, 138–41
United States v. Stuart, 489 U.S. 353 (1989) – 215, 328, 336, 338	Wardair Canada, Inc. v. Florida Department of Revenue, 477 U.S. 1 (1986) – 341
United States v. Texas, 162 U.S. 1 (1896) – 80, 84	Ware v. Hylton, 3 U.S. 199 (1796) – 7, 13–16, 18, 22, 30, 46, 49–50, 56, 85, 196, 250–51, 373, 455–56, 589, 591, 596
United States v. Verdugo-Urquidez, 494 U.S. 259 (1990) – 331, 562, 602	Warren v. United States, 340 U.S. 523 (1951) – 325, 337, 347
United States v. Weld, 127 U.S. 51 (1888) – 64, 71, 461	Washington v. Glucksberg, 521 U.S. 702 (1997) – 275, 492, 495, 499
United States v. Wiggins, 39 U.S. 334 (1840) – 20, 23	Washington v. Washington State Commercial Passenger Fishing Vessels Association, 443 U.S. 658 (1979) – 351
United States v. Wong Kim Ark, 169 U.S. 649 (1898) – 104, 106, 116, 149–51, 155, 161, 604	Waters v. Collot, 2 U.S. 247 (1796) – 24
United States v. Worrall, 2 U.S. 384 (D. Pa. 1798) – 27	Watson v. Tarpley, 50 U.S. 517 (1856) – 30, 234, 251, 596
United States v. Yen Tai, 185 U.S. 213 (1902) – 202, 206–08, 212	Webb v. O'Brien, 263 U.S. 313 (1923) – 210, 214–15
United States v. Yorba, 68 U.S. 412 (1864) – 61, 68, 72, 80, 83	Weinberger v. Rossi, 456 U.S. 25 (1982) – 329, 334–35, 392–93, 397–99, 424, 440, 600
United States v. Yousef, 327 F.3d 56 (2d Cir. 2003) – 108	Weltover, Inc. v. Republic of Argentina, 941 F.2d 145 (2d Cir. 1991) – 404–05
United States ex rel. Boynton v. Blaine, 139 U.S. 306 (1891) – 461	West River Bridge Co. v. Dix, 47 U.S. 507 (1848) – 42
United States ex rel. Toth v. Quarles, 350 U.S. 11 (1955) – 344	Western Maid, The, 257 U.S. 419 (1922) – 254
Valentine v. United States ex rel. Neidecker, 299 U.S. 5 (1936) – 197, 202, 210, 213	Western Union Telegraph Co. v. Call Publishing Co., 181 U.S. 92 (1901) – 229
Van Cauwenberghe v. Biard, 486 U.S. 517 (1988) – 330	Westmoreland v. United States, 155 U.S. 545 (1895) – 70
Van Der Weyde v. Ocean Transport Co., 297 U.S. 114 (1936) – 197	Whitney v. Robertson, 124 U.S. 190 (1888) – 56, 60, 64, 67, 70, 73–74, 78–80, 83, 134, 140, 206, 209, 455, 458, 591
Van Reynegan v. Bolton, 95 U.S. 33 (1877) – 72	Wiggins v. Conolly, 163 U.S. 56 (1896) – 82
Vella v. Ford Motor Co., 421 U.S. 1 (1975) – 325, 347	Wildenhus's Case, 120 U.S. 1 (1887) – see Mali v. Keeper of the Common Jail
Venus, The, 12 U.S. 253 (1814) – 33, 110, 171	Williams v. Heard, 140 U.S. 529 (1891) – 58, 64, 71, 461
Verlinden B.V. v. Central Bank of Nigeria, 461 U.S. 480 (1983) – 372, 402–04	Williams v. Suffolk Insurance Co., 38 U.S. 415 (1839) – 18, 47
Vermilya-Brown Co. v. Connell, 335 U.S. 377 (1948) – 330, 423	Willson v. Black Bird Creek Marsh Co., 27 U.S. 245 (1829) – 303
Vienna Convention on Consular Relations (Para. v. U.S.), 1998 I.C.J. 248 (Apr. 9) – 453	Wilson v. Girard, 354 U.S. 524 (1957) – 325, 338
Vilas v. City of Manila, 220 U.S. 345 (1911) – 205, 236–37, 242	Wilson v. McNamee, 102 U.S. 572 (1881) – 125
	Wilson v. Wall, 73 U.S. 83 (1867) – 70, 75
	Windsor v. McVeigh, 93 U.S. 274 (1876) – 478

Wong Wing v. United States, 163 U.S. 228 (1896) – 149–50, 155, 602	Yick Wo v. Hopkins, 118 U.S. 356 (1886) – 61–63, 69, 85, 311–12, 339
Worcester v. Georgia, 31 U.S. 515 (1832) – 14, 32, 47, 82	Young v. United States, 97 U.S. 39 (1878) – 131, 133, 259
World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980) – 408	Young Jacob and Johanna, The, 165 Eng. Rep. 81 (1798) – 111–12
Wright v. Henkel, 190 U.S. 40 (1903) – 210, 212	Youngstown Sheet & Tube Co. v. Sawyer (Steel Seizure), 343 U.S. 579 (1952) – 282, 332–33, 424, 431, 462, 507–08, 511, 513, 583, 602
Wulfsohn v. Russian Soviet Federated Soviet Republic, 266 U.S. 580 (1924) – 234, 244, 595	Zadvydas v. Davis, 533 U.S. 678 (2001) – 602
Wyoming v. Colorado, 259 U.S. 419 (1922) – 231	Zemel v. Rusk, 381 U.S. 1 (1965) – 344
Wyoming v. Oklahoma, 502 U.S. 437 (1992) – 430	Zenith Radio Corp. v. United States, 437 U.S. 443 (1978) – 330
Xuncax v. Gramajo, 886 F. Supp. 162 (D. Mass. 1995) – 371	Zicherman v. Korean Air Lines, 516 U.S. 217 (1996) – 337, 347
Yamataya v. Fischer, 189 U.S. 86 (1903) – 206	Zschemnig v. Miller, 389 U.S. 429 (1968) – 337, 340, 427
Yee Won v. White, 256 U.S. 399 (1921) – 206	