

How Federal Statutes Are Named*

Renata E.B. Strause,** Allyson R. Bennett,** Caitlin B. Tully,†
M. Douglass Bellis,†† and Eugene R. Fidell†††

| | |
|--|----|
| Introduction | 7 |
| A Collection of Popular Names | 12 |
| Naming Conventions for Federal Statutes | 14 |
| A Rival System of Popular Names | 17 |
| The More Popular “Popular Name” System, and the Merger of the Two Systems | 18 |
| Persistence of Informal Popular Names and Continued Transition to Sponsors’ Names | 19 |
| The Triumph of the Enacted Short Title | 20 |
| Formal Short Titles Waver in and out of Vogue from 1928 to the 1970s | 22 |
| A Rococo Efflorescence of Short Titles | 26 |
| Sponsors | 26 |
| Victims | 27 |
| Laudatory (and Cautionary) Gestures | 27 |
| Abbreviations | 28 |
| Politically Charged Descriptions | 29 |
| Conclusion | 30 |

Introduction

¶1 Given the number of public laws enacted since the First Congress began work on March 4, 1789,¹ it is no surprise that some effort has been made to assign

* © Renata E.B. Strause, Allyson R. Bennett, Caitlin B. Tully, M. Douglass Bellis, and Eugene R. Fidell, 2013. The authors would like to thank Sir Stephen Laws, Dan Feith (Class of 2012, Yale Law School), and the staff of the Lillian Goldman Law Library at Yale Law School. We are especially grateful to S. Blair Kauffman, Law Librarian and Professor of Law, and Jason Eiseman, Librarian for Emerging Technologies, both at Yale Law School, for their expert assistance.

** Class of 2013, Yale Law School, New Haven, Connecticut.

*** Class of 2013, Yale Law School, New Haven, Connecticut.

† Class of 2014, Yale Law School, New Haven, Connecticut.

†† Senior Counsel, Office of the Legislative Counsel, U.S. House of Representatives, Washington, D.C.

††† Senior Research Scholar in Law and Florence Rogatz Visiting Lecturer in Law, Yale Law School, New Haven, Connecticut.

1. The first bill signed into law by President George Washington was the Act of June 1, 1789, ch. 1, 1 Stat. 23 (An Act to Regulate the Time and Manner of Administering Certain Oaths). The Library of Congress estimated in 2005 that, through the 108th Congress, 44,291 laws had been

names to statutes, since mere sequential numbers, much less volume and page citations to the *Statutes at Large*, are hard to remember.² This is not to say that some federal legislation is not identified by other means. For example, Public Law 83-280,³ which was a landmark of the “termination” era of federal Indian law in 1953,⁴ is commonly known simply as “Public Law 280.” As has been pointed out, this can cause confusion, since, given the productivity of many Congresses, there will be numerous Public Law 280s.⁵ At times, an enacted measure may retain its bill number in common parlance, as in the case of the Fishery Conservation and Management Act of 1976,⁶ which extended U.S. fisheries’ jurisdiction out to two hundred miles, and was occasionally referred to as “H.R. 200” even after enactment.⁷ These identifiers are both ambiguous and uninformative. The same is true

enacted (not counting private laws and simple resolutions). Chris Sagers, *A Statute by Any Other (Non-Acronomial) Name Might Smell Less Like S.P.A.M., or, The Congress of the United States Grows Increasingly D.U.M.B.* 11 n.80 (2008), http://works.bepress.com/chris_sagers/1. The 109th to 111th Congresses added another 1325 public laws, for a total of 45,616. Our article does not address federal legislation enacted prior to the Constitution, but popular name issues arise there as well. *E.g.*, Northwest Ordinance of 1787, the formal title of which was “An Ordinance for the Government of the Territory of the United States, North-West of the River Ohio, and also known as the Freedom Ordinance.” The First Congress used the formal title when reaffirming it. Act of Aug. 7, 1789, ch. 8, 1 Stat. 50, 51. The Supreme Court has referred to the Ordinance variously as the Northwest Ordinance, the Ordinance of 1787, the Northwest Territory Ordinance, and even the Northwest Territories Ordinance (presumably reflecting the subliminal influence of the name of the Canadian federal territory). *See, e.g.*, *Wallace v. Jaffree*, 472 U.S. 38, 100 (1985) (referring to the Northwest Ordinance); *I.N.S. v. Chadha*, 462 U.S. 919, 983 n.18 (1983) (the Northwest Territories Ordinance); *Norton v. Whiteside*, 239 U.S. 144, 151 (1915) (the Northwest Territory Ordinance); *Strader v. Graham*, 51 U.S. (10 How.) 82, 94 (1850) (the Ordinance of 1787). The First Congress also referred to the Articles of War enacted by the Continental Congress in the first Articles of War enacted under the Constitution. Act of Apr. 30, 1790, ch. 10, § 13, 1 Stat. 119, 121 (“shall be governed by the rules and articles of war, which have been established by the United States in Congress assembled, as far as may be applicable to the constitution of the United States”).

2. Throughout this article, we have used a modified citation form when citing to session laws. Because the article focuses on statute names, rather than content, we have not included citations to where the act is codified, even if it is in the current version of the *U.S. Code*. In naming statutes, we have used the popular name if there is one, whether or not it is enacted. Some legislation has both an enacted short title and an unofficial popular name by which it is commonly known. For those laws, the enacted short title is either in the text or begins the citation, and the unenacted popular name is given in parentheses.

3. Act of Aug. 15, 1953, ch. 505, 67 Stat. 588.

4. *See* COHEN’S HANDBOOK OF FEDERAL INDIAN LAW § 1.06 (2005 ed.).

5. Mary Whisner, *What’s in a Statute Name?*, 97 LAW. LIBR. J. 169, 170 n.10, 2005 LAW. LIBR. J. 9, n.10. Another common example is “Public Law 480,” which is familiar shorthand for Public Law 83-480, the Agricultural Trade Development and Assistance Act of 1954, ch. 469, 68 Stat. 454.

6. Pub. L. No. 94-265, 90 Stat. 331.

7. One might assume that submission of the bill was timed to preserve its symbolically charged sequential number, but bills are not necessarily numbered in the precise order of arrival. In researching this article, we learned that it is possible to reserve a number for a bill. In each Congress since 1989, Rep. John Conyers has reserved H.R. 40 as the number for a bill to commission a study of the feasibility of paying slavery reparations to African Americans. The bill’s number refers to the forty acres that were promised to freed slaves. *Reparations*, JOHN CONYERS, JR., U.S. CONGRESSMAN, <http://conyers.house.gov> (under “Issues” menu, select “Reparations”) (last visited Oct. 18, 2012). Typically, low numbers are held for major bills that are central to the leadership’s legislative program.

The practice of referring to enacted laws by their bill numbers is not unique to the federal government. For example, Arizona’s Support Our Law Enforcement and Safe Neighborhoods Act,

of the practice of referring to part of a statute by the “title” number, of which the best-known example is Title VII of the Civil Rights Act of 1964,⁸ even though it and others do not appear in the *United States Code Annotated* Popular Name Table.⁹ Referring to legislation by public law number or title number injects further ambiguity because the reader may not know whether the intended reference is to the original statute or the statute as subsequently amended. On the other hand, that can be said even of narrative or descriptive titles. The authors of a leading guide to legal research call the variation in how statutes are referred to as “the beginning of a severe case of alphanumeric confusion.”¹⁰ And formal titles, such as the one in the very first federal statute, An Act to Regulate the Time and Manner of Administering Certain Oaths, are cumbersome and often hard to remember. The obvious answer: giving the statute a name that is easy to remember.¹¹

ch. 113, 2010 Ariz. Sess. Laws 450, as amended by Act of Apr. 30, 2010, ch. 211, 2010 Ariz. Sess. Laws 1070, is widely known as “S.B. 1070,” its bill number in the state senate, and was referred to as such by the U.S. Supreme Court throughout the recent decision invalidating large parts of the law. *Arizona v. United States*, 132 S. Ct. 2492 (2012). Voter initiatives often retain their “proposition” numbers in common parlance. *E.g.*, Proposition 8 (codified at CAL. CONST., art. I, § 7.5) (defining marriage as being only between a man and a woman); *see also* *Perry v. Brown*, 671 F.3d 1052 (9th Cir. 2012) (invalidating Proposition 8).

8. Pub. L. No. 88-352, tit. VII, 78 Stat. 241, 253. Other familiar examples include Title III of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, tit. III, 82 Stat. 197, 211 (wiretapping), and Title IX of the Education Amendments Act of 1972, Pub. L. No. 92-318, tit. IX, 86 Stat. 235, 373 (gender discrimination in education).

9. KENT C. OLSON, *PRINCIPLES OF LEGAL RESEARCH* 63 (2009). Olson adds that “[i]t may be simplest to do an online search for the phrase in order to identify the act. An Internet or newspaper search may turn up the full name of the act, and even better is a mention in a legal text or law review article that contains a footnote providing the statute’s code citation.” *Id.*

10. ROBERT C. BERRING & ELIZABETH A. EDINGER, *FINDING THE LAW* 127 n.13 (12th ed. 2005).

11. *See* Whisner, *supra* note 5, at 182, ¶ 30 (“Most of us just aren’t wired to remember strings of numbers and abbreviations.”). A related phenomenon may be seen in the work of the other branches. Thus, cases have long received docket numbers, although no one cites them that way (except perhaps for cases in the Supreme Court’s minuscule original jurisdiction, *e.g.*, “Orig. No. 138” (*South Carolina v. North Carolina*, 552 U.S. 1254 (2008))), and even then only among those who follow the Court *very* closely). Instead, cases overwhelmingly tend to be known by the names of the parties. Some of course are sufficiently important and well-known that a single party’s name is all that is needed to signify the case, as in “Roe,” *Roe v. Wade*, 410 U.S. 113 (1973); “Miranda,” *Miranda v. Arizona*, 384 U.S. 436 (1966); “Brown,” *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); “Erie,” *Erie R.R. Co. v. Tompkins*, 304 U.S. 64 (1938); or “Marbury,” *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803). Cases may also acquire the judicial equivalent of a “popular name” through judicial and scholarly usage. Examples include “The Steel Seizure Case,” *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952); “The Nazi Saboteurs Case,” *Ex parte Quirin*, 317 U.S. 1 (1942); “The Sick Chicken Case,” *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935); “The Slaughter-House Cases,” *Butchers’ Benevolent Ass’n of New Orleans v. Crescent City Live-Stock Landing & Slaughter-House Co.*, 83 U.S. (16 Wall.) 36 (1873); and “The Dartmouth College Case,” *Trustees of Dartmouth College v. Woodward*, 17 U.S. (4 Wheat.) 518 (1819). These are examples of what the *Bluebook* describes as “established” popular names. THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION 91 (19th ed. 2010) (R. 10.2.1(d)) (citing *The Civil Rights Cases*, 109 U.S. 3 (1883)) [hereinafter BLUEBOOK]. The *Insular Cases*, which (depending on whose view you accept) were either all decided in 1901, *e.g.*, *De Lima v. Bidwell*, 182 U.S. 1 (1901), or extend to cases decided as late as 1914, *e.g.*, *Ocampo v. United States*, 234 U.S. 91 (1914), or even later, fall into a different but related category, as do *in rem* admiralty cases in which the name of a vessel may serve as the popular name for the case, even though the case may be little known outside the maritime bar, *e.g.*, “The Hine,” *The Hine v. Trevor*, 71 U.S. (4 Wall.) 555 (1867); “The Genesee Chief,” *The Propeller Genesee Chief v. Fitzhugh*, 53 U.S. (12 How.) 443 (1852). Overall, many of the “popular names” of

¶2 But what name shall it be? At times, Congress has named its handiwork, either in the statute itself or in a later measure. These names may be descriptive, as in the Securities Act of 1933¹² or the Internal Revenue Code of 1939,¹³ 1954,¹⁴ or 1986,¹⁵ or they may memorialize some individual.¹⁶ That individual may be a sponsor of the legislation,¹⁷ a beloved or respected congressional leader¹⁸ (living¹⁹ or

cases “are quite obscure, ‘popular’ only in the broadest sense of the term. In recent years, the use of ‘popular names’ has declined precipitously, and very few new cases are being added to the list” found in *Shepard’s Acts and Cases by Popular Names: Federal and State*. BERRING & EDINGER, *supra* note 10, at 108.

12. Ch. 38, 48 Stat. 74.

13. Ch. 2, 53 Stat. 510 (full text printed as an appendix to 53 Stat.).

14. Ch. 736, 68 Stat. 730 (full text printed in 68A Stat.).

15. Tax Reform Act of 1986, Pub. L. No. 99-514, 100 Stat. 2085.

16. A new variant is the application of a political opponent’s name to a proposed or enacted measure thought to be (or sought to be made) unpopular, as in the repeated use by Republican politicians of “Obamacare” to describe the program enacted by Congress in the Patient Protection and Affordable Care Act (PPACA), Pub. L. No. 111-148, 124 Stat. 119 (2010), which President Obama signed on Mar. 23, 2010. See *Fighting to Control the Meaning of “Obamacare,”* N.Y. TIMES, Mar. 26, 2012, at A12. During his brief bid for the Republican presidential nomination, Minnesota Governor Tim Pawlenty further modified the popular name for the PPACA, calling it “Obamneycare” in an attempt to link his rival, Mitt Romney, to the incumbent president. Jill Lawrence, *Obamacare, Romneycare, Obamneycare—Never Mind*, NAT’L JOURNAL: 2012 DECODED (Jan. 8, 2012, 10:29 A.M.), <http://decoded.nationaljournal.com/2012/01/obamacare-romneycare-obamneyca.php>. At the same time, congressional opponents of the legislation seem to avoid referring to the PPACA by its official title, even in attempts to repeal the law. The second bill introduced in the Republican-controlled 112th Congress was titled “An Act to repeal the job-killing health care law and health care-related provisions in the Health Care and Education Reconciliation Act of 2010,” and given the short title “Repealing the Job-Killing Health Care Law Act,” H.R. 2, 112th Cong. (2011). The text of the bill refers to the 2011 act only as the “Job-Killing Health Care Law” and by its public law number. Other legislation from the 112th Congress similarly refers to the PPACA in whole or in part as the “job-killing health care law,” H.R. 1184, 112th Cong. (2011), the “job-killing Federal employer mandate,” S. 20, 112th Cong. (2011), or simply by its public law number, Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, 125 Stat. 786 (2011). At least one bill to repeal the PPACA, however, uses the *Obamacare* moniker, including the short title: “Repeal of Obamacare Act,” H.R. 6079, 112th Cong. (2012). In the 2012 presidential election campaign, it appeared that supporters of President Obama embraced the term *Obamacare* as a name for the new law, perhaps spurred in part by the President’s own adoption of it in speeches and in campaign materials. See Peter Baker, *Democrats Embrace Once Pejorative “Obamacare” Tag*, N.Y. TIMES, Aug. 4, 2012, at A11.

17. Sagers claims that naming federal laws for sponsors “appears to be more and more a thing of the past,” adding that: “While of course there are still statutes named after their sponsors, it is telling that nowadays the choice seems most commonly made to indicate that a bill had bipartisan cosponsors. McCain-Feingold [Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81] and Sarbanes-Oxley [Sarbanes-Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745] come to mind. It seems telling because it shows that the practice of statutory short names is now a rhetorical one.” Sagers, *supra* note 1, at 3 & n.9. Our research does not support Sagers’s impression that naming laws for sponsors is dying out.

18. Whisner, *supra* note 5, at 178–79 nn.68–71 (collecting statutes).

19. No rule forbids naming federal legislation for living persons. Federal buildings and vessels are not infrequently named for the living. “The *Postal Operations Manual* specifies that the Postal Service may name a postal facility after an individual ‘only with the approval of the Postmaster General and only if the individual has been deceased for at least 10 years, with the exception of deceased U.S. Presidents, Postmasters General, or former members of the [Postal Service’s] Board of Governors.’ These restrictions do not apply to individuals honored by acts of Congress.” *What’s in a (Post Office) Name?*, U.S. POSTAL SERVICE 4 (Aug. 2008) (footnote omitted), <http://about.usps.com/who-we-are/postal>

dead), or a private citizen to whom the legislation in some way relates (such as what Mary Whisner calls “Statutory Poster Children”).²⁰ A statute may have a “popular name” either from birth or from some later date. Many popular or informal names are a matter of custom and usage only, and have no legislative status of their own, yet laws are often—indeed, typically—cited by these informal names.²¹

¶3 While some attention has been paid to the recent spate of clever, loaded, or tendentious statutory names²² and acronyms,²³ the naming of federal statutes for individuals has received surprisingly little systematic attention. The purposes of this article are to trace the history of federal statutory naming conventions and to identify as authoritatively and as completely as possible the persons and political issues Congress has decided to honor or highlight in this fashion, as well as the proliferation of abbreviations as a further shortening of the short title.²⁴ Whether

-history/post-office-names.pdf. See also JUDITH RESNIK & DENNIS CURTIS, REPRESENTING JUSTICE 486 n.69 (2011) (noting Judicial Conference of the United States’ policies against naming courthouses for retired judges who practice law and including titles such as “Honorable” or “Judge” in courthouse names); NYE STEVENS, CONG. RESEARCH SERV., RS 21562, NAMING POST OFFICES THROUGH LEGISLATION 2 (2005) (“Retired Members of Congress—about half still living—were honored in 19 of the acts of the 108th Congress”).

20. Whisner, *supra* note 5, at 178; see also Ben Jones, *States Hurry Laws Named for Victims*, USA TODAY, Sept. 23, 2011, at 4A. Legislation may also be known informally by the name of an individual whose conduct or circumstances prompted the measure. See, e.g., Hiss Act (Pensions), ch. 1214, 68 Stat. 1142 (1954); Eugene R. Fidell, *The Next Judge*, 5 J. NAT’L SEC. L. & POL’Y 303, 308 n.25 (2011) (discussing the Joe Baum Act (10 U.S.C. § 942(b)(4) (2006)), which bars retired military personnel who served on active duty for twenty or more years from being appointed to the U.S. Court of Appeals for the Armed Forces). Yet another category would include legislation that names post offices or other public buildings for individuals, where the tribute to an individual is indirect. See generally KEVIN R. KOSAR & PAMELA A. HAIRSTON, CONG. RESEARCH SERV., RS 21562, NAMING POST OFFICES THROUGH LEGISLATION 3 (2009), available at http://assets.opencrs.com/rpts/RS21562_20070319.pdf (suggesting that “[t]he practical effect of legislation renaming a post office is less than might appear”—a dedicatory 11-by-14-inch plaque for the lobby).

21. The *Bluebook* contemplates the use of popular names in statutory citations. BLUEBOOK, *supra* note 11, at 114 (R. 12.3.1) (citing Labor Management Relations (Taft-Hartley) Act § 301(a), 29 U.S.C. § 185(a) (2006)); *id.* at 116 (R. 12.4(a)) (citing White-Slave Traffic (Mann) Act, ch. 395, 36 Stat. 825 (1910)).

22. E.g., Josh Lederman, *A Bill’s Name Is Part of the Game*, MEDILL REPORTS CHICAGO (June 8, 2010), <http://news.medill.northwestern.edu/chicago/news.aspx?id=166509> (“[T]he purpose of strategic names is to put opponents on the defensive regardless of the merits. . . . ‘It should be considered unethical. . . .’” (quoting Joel Jacobsen, a N.M. Ass’t Att’y Gen.)). See also Eugene R. Fidell, *Op-Ed., Legis-flation*, N.Y. TIMES, June 1, 1995, at A25 (collecting statutes and bills).

23. E.g., Brian Christopher Jones, *Drafting Proper Short Bill Titles: Do States Have the Answer?*, 23 STAN. L. & POL’Y REV. 455 (2012) (comparing federal and state titling practices); Whisner, *supra* note 5, at 179–82, ¶¶ 26–28 (collecting statutes); Sagers, *supra* note 1 (collecting statutes); Jess Bravin, *Congress Finds, in Passing Bills, That Names Can Never Hurt You—Thus the Acronymic PATRIOT Act; Still, a Sad End for HAPPY*, WALL ST. J., Jan. 12, 2011, at A1; I’M JUST A BILL, <http://billtitles.blogspot.com> (last visited Oct. 9, 2012) (collecting bills); Carter Wood, *Next: The Stop Clever Acronyms in Titles Act*, SHOPFLOOR (Jan. 14, 2011, 10:45 A.M.), <http://shopfloor.org/2011/01/next-the-stop-clever-acronyms-in-titles-act/17371>.

24. In addition to our interest in the particular naming conventions noted above, one of us, Douglass Bellis, who works in the drafting office for the House of Representatives, has repeatedly received inquiries from reporters for the *New York Times*, the *Wall Street Journal*, and the *Los Angeles Times* about how names are developed for statutes.

the current conventions for naming federal legislation are in principle good or bad, wise or silly,²⁵ the first step, which we take here, is to chronicle the practice in all its pined beauty.

A Collection of Popular Names

¶4 This article draws on data we gathered in a systematic examination of federal public laws, which we have made available in a searchable and sortable format through the web site of the Lillian Goldman Law Library at Yale Law School. In it, we have attempted to assemble every act of Congress whose name fails to reveal to the reader the matter addressed. This includes legislation popularly known by an individual's name as well as the more recent phenomenon of acronymically identified statutes.²⁶

¶5 At times a researcher may have only the popular name of an act of Congress. This can make the text of the statute very difficult to find, since popular names vary in type, and until the second decade of the twentieth century, none were included in the acts themselves. Many, but not all, of the popular names are included in various popular name indexes. Besides being incomplete, those indexes may refer you only to much-amended compilations of the actual laws rather than to original versions, or perhaps only to the original version of a law when you are looking for the updated text. Our web site is an attempt to make it easier for researchers with popular names of federal statutes to find the text of the law they need.

¶6 The starting point for compilation of data presented on the web site and discussed in this article is the Table of Popular Names, a helpful guide maintained by the congressional Office of the Law Revision Counsel to accompany the official edition of the *United States Code*.²⁷ The official table is an alphabetical list of both

25. Jess Bravin, *Like Those Catchy Names for Statutes? Here's a Man Who Doesn't*, WALL ST. J. LAW BLOG (Jan. 12, 2011, 1:38 P.M.), <http://blogs.wsj.com/law/2011/01/12/like-those-catchy-names-for-statutes-heres-a-man-who-doesnt> (noting recommendation of Brian Christopher Jones, doctoral candidate at the University of Stirling, that legislators "Keep It Impersonal: Don't put the names of victims, members of Congress 'or anybody who could be used to assist or hinder the legislation'"). Suggestions that members of Congress be barred from naming programs after themselves, Jennifer Steinhauer, *Long Floor Fight Over Spending Cuts Gets Personal*, N.Y. TIMES, Feb. 19, 2011, at A15, have not gained traction.

26. *Database of Federal Statute Names*, LILLIAN GOLDMAN LAW LIBRARY, <http://documents.law.yale.edu/popular-names> (last visited Nov. 1, 2012). The collection can be sorted by the popular name of the law, by the date of its enactment, or by descriptive category of naming convention. The categories are our attempt to bring some degree of order to the chaos. We note whether the popular name of a law has been enacted as an official short title (either through the original act or by amendments or related legislation) and whether that name comes from the name of the law's sponsor or the name of a victim of a crime, or honors a particular individual or group. We also have separate categories for acronyms like the "USA PATRIOT Act," where the short title is spelled by the first letter or letters of another, slightly longer, short title, and for abbreviations like "GPRA," the Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285, which was not a word when the act was named, but which has become part of the "alphabet soup" of acronymic federal programs and agencies. Where available, each entry also contains a link to an outside source for our understanding of the name's origin, as well as the law's location in the *U.S. Code*.

27. Office of the Law Revision Counsel, *Table of Popular Names Explanation*, <http://uscode.house.gov/popularnames/popularnamesexplanation.htm> (last visited Oct. 15, 2012) (noting that

enacted short titles and popular, but often unenacted, names of acts of Congress. The vast majority of the thousands of names included in that table are what we view as *descriptive* names—the Energy Policy Act of 1992²⁸ or the Anabolic Steroid Control Act of 2004²⁹—that is, the name of the legislation communicates key information about its content, but without any particular political spin. The rise of these short titles coincided with the increased tempo of federal legislation in the twentieth century and with the professionalization of legislative drafting.³⁰ Most of these descriptive statutory names are not included in our database.

¶7 More relevant to our purposes are the names in the popular name table with less obvious links to the legislative content. From that table we culled any entry that appeared to be named for an individual or group,³¹ used an abbreviation,³² or that might have been a politically charged description.³³ For each of these entries, we first determined whether the law had an enacted short title or other formal name included in the statute. Most of the popular names that were not enacted in the initial piece of legislation then received a second look—if the measure had been codified, we consulted amendments and other subsequent references to determine if the popular name was itself enacted at a later date, either by amending the original law to include a short title or by reference in later, related legislation. We looked for the origins of the statute names. This task was easiest for enacted short titles named for legislative sponsors, retiring members of Congress, and crime victims, and considerably more difficult for laws dating from before the mid-twentieth

the version of the popular name table made available on the web site “is based on the 2006 edition of the Code and a preliminary version of the Table Supplement V to that Edition”). About ten years ago, the Office of the Law Revision Counsel decided to review the popular name table, which had grown over the decades, and eliminate those entries that did not have statutory or at least some sort of congressional authorization, but they soon discovered that few laws would remain if that were the criterion for retention. They therefore left in those that had any sort of currency, even if only in the academic or popular press. Interview by Douglass Bellis with staff of the Office of the Law Revision Counsel (Feb. 17, 2012).

28. Pub. L. No. 102-486, 106 Stat. 2776.

29. Pub. L. No. 108-358, 118 Stat. 1661.

30. See *infra* ¶¶ 32–34.

31. *E.g.*, Adamson Law (Eight Hour Day), ch. 436, 39 Stat. 721 (1916); Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (Morris K. Udall and Stewart L. Udall Foundation Act), Pub. L. No. 102-259, 106 Stat. 78; Megan’s Law, Pub. L. No. 104-145, 110 Stat. 1345 (1996).

32. *E.g.*, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. No. 109-59, 119 Stat. 1144 (2005); Sober Truth on Preventing Underage Drinking Act (STOP Act), Pub. L. No. 109-422, 120 Stat. 2890 (2006); Creating Opportunities for Minor League Professionals, Entertainers, and Teams through Legal Entry Act of 2006 (COMPETE Act of 2006), Pub. L. No. 109-463, 120 Stat. 3477.

33. *E.g.*, Glass Ceiling Act of 1991, Pub. L. No. 102-166, tit. II, 105 Stat. 1071, 1081; Pro-Children Act of 1994, Pub. L. No. 103-227, tit. X, pt. C, 108 Stat. 125, 271; The long title of the Automobile Dealers’ Day in Court Act is similarly political: “An Act To supplement the antitrust laws of the United States, in order to balance the power now heavily weighted in favor of automobile manufacturers, by enabling franchise automobile dealers to bring suit in the district courts of the United States to recover damages sustained by reason of the failure of automobile manufacturers to act in good faith in complying with the terms of franchises or in terminating or not renewing franchises with their dealers.” Automobile Dealers’ Day in Court Act, ch. 1038, 70 Stat. 1125 (1956).

century.³⁴ Finally, in an attempt to catch any nondescriptive names that may have been enacted into early laws that were subsequently repealed (and therefore would not appear in the official popular name table), we reviewed the *Statutes at Large* from 1789 through, somewhat arbitrarily, the Bankhead-Jones Farm Tenant Act of 1937.³⁵

Naming Conventions for Federal Statutes

¶8 How federal statutory naming conventions developed helps put contemporary practice into perspective. At first, there were no short titles and no official names for acts of Congress other than “long” titles, such as “An act to provide for the safe-keeping of the Acts, Records, and Seal of the United States, and for other purposes.”³⁶ In 1845, federal laws were arranged as “chapters” in the *Statutes at Large*, which is still the most authoritative source for acts of Congress in the form in which they were enacted.³⁷ The arrangement in the *Statutes at Large* seems to imitate the then-contemporary practice in Great Britain, where a “statute” consisted of all the acts of one Parliament, and each act was a chapter in the statute.³⁸ As in Britain, the earliest acts of Congress were cited by long title and date of enactment, and perhaps to the *Statutes at Large*. This is still an acceptable form of citation, although often a *United States Code* citation is added, which has the advantage of allowing the reader to see an updated version of the law.³⁹

¶9 Beginning in 1901, a new system for identifying acts of Congress was used in addition to the *Statutes at Large* chapter numbers, and each law passed during a particular Congress was numbered sequentially, with separate lists for “public” and

34. For popular names that were never enacted into law—the vast majority of entries that we studied in the popular name table prior to 1970—we searched the *Biographical Directory of the U.S. Congress*, which is compiled and edited by the Joint Committee on Printing. Where the name in the table was the same as the name of a member of the House or Senate contemporary to the legislation’s enactment, we listed that member as the origin of that popular name. Based on the convention of referring to legislation by its sponsors or primary supporters—a convention we have found in news sources as early as the late 1800s—it is likely that the popular names indicate sponsorship. See, e.g., *Democratic Hostility to the Pendleton Act*, N.Y. TIMES, July 12, 1885, at 6. Nonetheless, these entries represent only our best guess.

35. Ch. 517, 50 Stat. 522 (1937). Although our primary objective was to catalog and investigate those federal statutes with names that are more than mere descriptions of the legislative content, our curiosity about other naming conventions—such as the origins of the practice of enacting short titles within legislation, or attempts to amend earlier, important statutes to give them short titles—led us to attempt to cull additional information from the older volumes of the *Statutes at Large*. We chose the 1937 Bankhead-Jones Farm Tenant Act as our stopping point simply because most later statutes with popular names or short titles are included in the popular name table.

36. Act of Sept. 15, 1789, ch. 14, 1 Stat. 68.

37. See Resolution of Mar. 3, 1845 (Res. No. 10), 5 Stat. 798; MORRIS L. COHEN & ROBERT C. BERRING, *HOW TO FIND THE LAW* 186 (8th ed. 1983). See also generally, Mary Whisner, *The United States Code, Prima Facie Evidence, and Positive Law*, 101 LAW LIBR. J. 545, 2009 LAW LIBR. J. 30 (discussing the authority of different statutory publications).

38. *Classification and Recording of Acts of Parliament*, YOUR ARCHIVES, http://yourarchives.nationalarchives.gov.uk/index.php?title=Classification_and_Recording_of_Acts_of_Parliament (last updated Sept. 30, 2012).

39. See BLUEBOOK, *supra* note 11, at 113 (R. 12.2.2(b)).

“private” laws. In 1957, the public and private law numbering system won out and the “chapter” approach was discontinued.⁴⁰ This system provided an unambiguous and shorter means of referring to an act of Congress, but gave no information about the content of the legislation.⁴¹

¶10 Some early acts of Congress had popular names, such as the Alien and Sedition Acts,⁴² which are remembered today for the serious political controversy they sparked. Popular names typically described the legislative content, but had no official status.⁴³ They were not included in the act itself, which is why the long title continued to be used until well into the twentieth century, when the almost universal inclusion of formal short titles in acts of Congress all but rendered the older, but still technically correct, form of citation superfluous.

¶11 Early Congresses did not pass a great deal of legislation by current standards. The laws enacted by the first session of Congress occupy less than one hundred printed pages in the first volume of the *Statutes at Large*.⁴⁴ Most chapters in that volume were short and dealt with a single topic.⁴⁵ Because Congress was slow to exercise its full power to confer jurisdiction over federal question cases,⁴⁶ there seems to have been little need to cite to federal statutes in early federal court cases. In any event, there was little trouble in doing so unambiguously, as there were so few of them.⁴⁷

40. *About Bills, Resolutions, and Laws*, LEXISNEXIS, http://www.lexisnexis.com/help/cu/Serial_Set/About_Bills.htm#pub (last visited Oct. 22, 2012).

41. Perhaps, however, the use of public law numbers in legislation relating to the Patient Protection and Affordable Care Act of 2010 is a sign of a return to more apolitical monikers? See the discussion *supra* note 16. Will the use of public law numbers come to supplant short titles that have become too long or tendentious for convenient use, or will they simply be employed by a law’s detractors who do not want to cede any ground by referring to a law’s politically charged name?

42. Act of June 25, 1798, ch. 58, 1 Stat. 570 (An Act concerning Aliens); Act of July 14, 1798, ch. 74, 1 Stat. 596 (An Act in Addition to the Act Entitled “An Act for the Punishment of certain crimes against the United States”).

43. See, e.g., Act of Mar. 3, 1791, ch. 15, 1 Stat. 199 (known as the Whiskey Act of 1791); Act of Dec. 22, 1807, ch. 5, 2 Stat. 451 (known as the Embargo of 1807).

44. The seventy-six pages of laws enacted during the first session of the First Congress are found at 1 Stat. 23–98. Now many individual acts of Congress are at least that long and, cumulatively, the number of pages devoted to new laws in a given session is often in the thousands. The Food, Conservation, and Energy Act of 2008, for example, takes up 629 pages. Pub. L. No. 110-234, 122 Stat. 923–1551.

45. The first volume contains 444 laws, enacted during the first five Congresses, averaging a little more than one-and-a-half pages per law. Only nine of the 444 statutes are ten pages or longer, and the only statutes longer than fifteen pages are the Tariff Act of 1789, the Judiciary Act of 1789, and the legislation establishing the Post Office.

46. See RICHARD H. FALLON, JR., ET AL., *HART & WECHSLER’S THE FEDERAL COURTS AND THE FEDERAL SYSTEM* 743–47 (6th ed. 2009).

47. An unscientific study of the oldest cases before the U.S. Supreme Court reveals that both attorneys (at least as reported) and Justices identified statutes both by their dates of enactment and by official long titles. See, e.g., *Young v. Bank of Alexandria*, 8 U.S. (4 Cranch) 384, 396 (1808) (referring to the “act of congress of February, 1801” and also to “the ‘act concerning the district of Columbia’”). Both methods appeared to produce sufficient clarity, although the example of an 1813 case that quotes a statute which refers internally to a different statute by its long title shows that the conventions, at least to modern eyes, could get messy. See *The Aurora*, 11 U.S. (7 Cranch) 382, 383–84 (1813) (“The act of 1st of March, 1809, expired with the session of Congress, on the 1st of May, 1810, on which day, Congress passed an act, (vol. 10, p. 186,) the 4th section of which enacted, ‘that in case either Great

¶12 Eventually, though, there came to be more than one statute on a given topic. In practice, the year of enactment was added to the subject to distinguish one from another. An example of this can be seen with the Judiciary Act of 1789 (also known as the First Judiciary Act),⁴⁸ the Judiciary Act of 1801 (also known as the Midnight Judges Act),⁴⁹ and the Judiciary Act of 1802.⁵⁰ The national conflict over tariffs and foreign trade gave rise to some of the relatively few popular names that we have from the early to mid-1800s. The Embargo Act (1807), also “dyslexically” known as the “Oh! Grab Me Act,”⁵¹ and the Force Bill (1833)⁵² reflect this. The growing disputes over slavery also provide examples, such as the Fugitive Slave Law⁵³ and the Wilmot Proviso.⁵⁴ Despite evidence of use in newspapers and legislative debates, these popular names nonetheless remained unofficial and off the statute books.⁵⁵

¶13 The practice of using informal, unenacted names for acts based on topic worked out well enough into the nineteenth century (down through at least the Bankruptcy Act of 1898⁵⁶). Most statutes during this period continued to have no

Britain or France shall, before the third day of March next, so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the United States, which fact the President of the United States shall declare by proclamation, and if the other nation shall not within three months thereafter so revoke or modify her edicts in like manner, then the third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eighteenth sections of the act, entitled “An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes” . . .”). On occasion, an unenacted but descriptive popular name was used as shorthand. *E.g.*, In re Brinkman, 4 F. Cas. 145, 147 (S.D.N.Y. 1800) (No. 1884) (“The ninth section of the judiciary act of 1789 (1 Stat. 76, 77) declares that the district courts shall have exclusive jurisdiction of all crimes and offences that shall be cognizable under the authority of the United States . . . [T]he act of congress of 1789, commonly called the ‘Judiciary Act’ gives to the district courts of the United States exclusive cognizance . . .”). Perhaps the best-known case to make use of a short title is *Dred Scott*—several of the Justices referred to the Missouri Compromise Act by that name. *See, e.g.*, *Dred Scott v. Sanford*, 60 U.S. (19 How.) 393, 519 (1856) (Catron, J., dissenting). It appears as though the earliest reference to an act by the name of its sponsor is in a 1916 case citing to an 1890 law “usually known as the Wilson law.” *Rosenberger v. Pacific Exp. Co.*, 241 U.S. 48, 50 (1916).

48. Act of Sept. 24, 1789, ch. 20, 1 Stat. 73.

49. Act of Feb. 13, 1801, ch. 4, 2 Stat. 89.

50. Act of Apr. 29, 1802, ch. 31, 2 Stat. 156. Later judiciary acts were known both as the “Judiciary Act of” a particular year and by secondary popular names, such as the Judicial Circuits Act (Act of July 23, 1866, ch. 210, 14 Stat. 209), the Evarts Act (Act of Mar. 3, 1891, ch. 517, 26 Stat. 826), and the Certiorari Act (Act of Feb. 13, 1925, ch. 229, 43 Stat. 936).

51. Act of Dec. 22, 1807, ch. 5, 2 Stat. 451. The Embargo Act of 1807 was known derisively as the “Ograbme” Act—*embargo* spelled backward—based on a political cartoon by Alexander Anderson. Alexander Anderson, “Ograbme, or The American Snapping-Turtle” (1807), *reprinted in* ROGER BUTTERFIELD, *THE AMERICAN PAST* 51 (1947).

52. Act of Mar. 2, 1833, ch. 57, 4 Stat. 632.

53. Act of Sept. 18, 1850, ch. 60, 9 Stat. 462.

54. Act of June 10, 1862, ch. 111, 12 Stat. 432 (prohibiting slavery in the “[t]erritories of the United States”).

55. The *Congressional Globe* for Dec. 28, 1833, reported: “The bill to repeal the act, commonly called the ‘Force Bill,’ came up in order,” 23rd Cong., 1st Sess., *CONG. GLOBE* 49 (1833); the Fugitive Slave Law of 1850 was referred to as such in an editorial published in the *New York Times* in 1860, *The Fugitive Slave Law*, *N.Y. TIMES*, Dec. 10, 1860, at 4; and the Wilmot Proviso appears in the *New York Times* as early as 1853, when it was referred to as such in a letter from Senator Daniel S. Dickinson, *Letter of Daniel S. Dickinson in Reply to a Late Article in the Union*, *N.Y. TIMES*, Sept. 17, 1853, at 3.

56. Act of July 1, 1898, ch. 541, 30 Stat. 544.

name at all, even an unofficial one. For various reasons there seemed to be no need for them. Most federal law before the Civil War seemed of little interest to people in the United States, other than a few lawyers. Few citizens in a largely agrarian society were affected directly by it. Congressional action appears to have been mostly concerned with obtaining revenues through tariffs, organizing the burgeoning executive and judicial branches, and funding internal improvements. Matters affecting marriage, property, education, and regulation of local commerce, and virtually all criminal law—the sort of law that affects most people in their daily lives—were exclusively the province of state rather than federal law.

A Rival System of Popular Names

¶14 In the nineteenth century, a parallel practice developed of naming some legislation for individuals. The names that resulted from this practice, like the subject-related names, were again not set forth in the law itself, but grew out of common parlance. This method named the legislation after one or more members who sponsored it or were somehow related to it (normally as its proponents) in one or both chambers of Congress. The practice seems to have originated in Congress itself, where it likely was natural to identify a bill with its proponents. Perhaps it provided a convenient way to refer to bills as they were being considered. It may have evolved in imitation of the classical Roman system for naming laws after the consul or consuls who initiated them.⁵⁷ The early American republic strongly identified with Rome, as the popularity of classical Greek and Roman architecture for public buildings and the statues of Washington wearing a toga attest.⁵⁸ It may also have been influenced by a similar vogue for classical antiquity among the British, or at least the British Whigs, during the late eighteenth and early nineteenth centuries. Whatever the source, a similar custom of naming laws for their sponsors obtained in Britain.⁵⁹ Since American lawyers were familiar with English cases and texts during the period,⁶⁰ it might well be that this was the real source of the custom of referring to laws by the name of the sponsor.

57. MARRIAGE, DIVORCE, AND CHILDREN IN ANCIENT ROME, at vi (Beryl Rawson ed., 1991) (citing as examples of this practice the *les Papia Poppaea* introduced by the consuls M. Papius Mutilus and C. Poppaeus Sabinus, and the legislation by Augustus bearing the name of his adoptive family, the *leges Juliae*).

58. See Rob Atkinson, *Reviving the Roman Republic: Remembering the Good Old Cause*, 71 *FORDHAM L. REV.* 1187, 1191 n.17 (2003).

59. A memorandum of the Office of the Parliamentary Counsel prepared in relation to a Statute Law (Repeals) Bill indicates that before the introduction of official short titles in the 1840s: “Statutes of general importance had acquired short unofficial names, such as Jervis’ Act . . .” *LAW COMM’N & SCOTTISH LAW COMM’N, STATUTE LAW REVISION: FIFTEENTH REPORT, DRAFT STATUTE LAW (REPEALS) BILL*, 1995, Cm. 2784, ¶ 4.2, available at http://www.scotlawcom.gov.uk/download_file/view/321 [hereinafter *STATUTE LAW REVISION*]. Examples of the unofficial names of British acts contemporaneous with the first fifty years of the republic include Burke’s Act (22 Geo. 3, c. 75) (1782) (Colonial Leave of Absence); Sturges Bourne’s Act (58 Geo. 3, c. 69) (1818) (Vestries); Aberdeen’s (Lord) Act (5 Geo. 4, c. 87) (1824) (Entail); and Scrope’s (Poulett) Act (6 & 7 Will. 4, c. 96) (1836) (Parochial Assessments).

60. See Brian J. Moline, *Early American Legal Education*, 42 *WASHBURN L.J.* 775 (2004) (describing the considerable influence of British legal education and texts on the training of American lawyers during the colonial era and early republic).

The More Popular “Popular Name” System, and the Merger of the Two Systems

¶15 Of the acts of Congress before 1900, many more seem to have the sort of popular name based on individuals’ names, usually sponsors’ names, than popular names based only on subject matter. Toward the end of the period 1790–1900, and following that until about 1950, we see a number of instances where the common name combines a subject matter allusion with one or more legislators’ names.⁶¹ More and more laws were passed, and therefore there was an increased need to distinguish one from another. Using legislators’ names is not a satisfactory solution, just as previously using a subject matter allusion without a year would create ambiguity.⁶² The sheer volume of federal legislation had increased by this time. More than one act of Congress might therefore be named after the same particularly prolific or influential member. As a result, sometimes the acts would be called such things as the First and Second Morrill Acts.⁶³ Where ambiguity remains, there is often a reference to the topic covered as well, either as a noun modified by the adjectival sponsor’s name, such as the Steagall Commodity Credit Act,⁶⁴ or in a parenthetical reference, such as the Carlisle Act (Internal Revenue).⁶⁵ We thus see some blending of the two previously independent popular naming conventions.

¶16 By 1900, neither of the existing systems was sufficient to identify legislation unambiguously without a long formal citation. A new system was needed.

¶17 A similar problem had been faced in the United Kingdom. In 1847, long before any federal law had one, a drafter of the Markets and Fairs Clauses Act 1847⁶⁶ gave that act that official short title. Lord Brougham’s Act (also known as the Interpretation Act 1850),⁶⁷ the long title of which was “An Act for shortening the Language used in Acts of Parliament,” may also have paved the way. Among other things, it eliminated the requirement that British acts be cited by their long titles; citation by session and chapter number sufficed.⁶⁸ Both the first enacted short title

61. *E.g.*, LaFollette Hours of Labor Act, ch. 2939, 34 Stat. 1415 (1907); Steagall Stock Liability Act (Federal Reserve Act), ch. 6, 38 Stat. 251 (1913); Nolan Minimum Wage Law, ch. 174, 40 Stat. 960 (1918); Fletcher-Rayburn Securities Act of 1933, ch. 38, 48 Stat. 74.

62. For example, Congress enacted eight different Judiciary Acts before 1900, each of which is referred to as the “Judiciary Act of” the year in which it was enacted. The addition of the year, however, did not solve the problem for the two Judiciary Acts of 1866, Act of July 23, 1866, ch. 210, 14 Stat. 209, and Act of July 27, 1866, ch. 288, 14 Stat. 306, the first of which is also referred to as the Judicial Circuits Act. *See also* Philip S. Bonforte, *Pushing Boundaries: The Role of Politics in Districting the Federal Circuit System*, 6 SETON HALL CIR. REV. 29, 38 (2009) (discussing the history of seven of the eight pre-1900 Judiciary Acts). *See also supra* ¶ 12.

63. Act of July 2, 1862 (First Morrill Act), ch. 130, 12 Stat. 503; Act of Aug. 30, 1890 (Second Morrill Act), ch. 841, 26 Stat. 417.

64. Act of July 1, 1941, ch. 270, 55 Stat. 498.

65. Act of May 28, 1880, ch. 108, 21 Stat. 145.

66. 10 & 11 Vict., c. 14.

67. 13 & 14 Vict., c. 21.

68. *Id.* § 3 (providing that “in any Act, when any former Act is referred to, it shall be sufficient, if such Act was made before the Seventh Year of Henry the Seventh, to cite the Year of the King’s Reign in which it was made, and where there are more Statutes than One in the same Year the Statute, and where there are more Chapters than One the Chapter; and if such Act referred to was made after the Fourth Year of Henry the Seventh, to cite the Year of the Reign, and where there are more Statutes or Sessions than One in the same Year the Statute or the Session (as the Case may require), and where

and Lord Brougham's Act were passed before the Office of the Parliamentary Counsel was created in 1869. The first holder of that office, Lord Henry Thring, had been drafting legislation since at least 1860 and memorialized his advice for legislative drafters in a manual titled *Practical Legislation*.⁶⁹ He recommended that every act include a short title, ending with the year of enactment.⁷⁰

¶18 Parliament (or at least the Office of the Parliamentary Counsel) apparently found short titles useful, since in the Short Titles Acts 1892⁷¹ and the Short Titles Act 1896,⁷² it retroactively provided official short titles for many earlier acts of Parliament.⁷³ As short titles have come into common usage, the British custom is to name the statute for the topic governed by the act in question and the year of enactment.⁷⁴ The United States was much slower to adopt enacted short titles, and to apply such titles to previously enacted measures. Not until the last quarter of the twentieth century did Congress generally provide short titles for most acts of Congress or stop referring to earlier legislation by official long title.

Persistence of Informal Popular Names and Continued Transition to Sponsors' Names

¶19 By the time of the Civil War, Congress members' names had become the most common source of popular names. Still, like the other popular names, these names were not found in the acts of Congress themselves. They continued to be unofficial, though their use seems so general as to eclipse the official long title for all practical purposes, except in formal references in other acts of Congress.

¶20 For the latter half of the nineteenth century and during the first quarter of the twentieth, this practice of naming laws (if they had names at all—most still did

there are more Chapters or Sections than One the Chapter or Section or Chapter and Section (as the Case may require), without reciting the Title of such Act, or the Provision of such Section so referred to" (emphasis omitted)).

69. LORD [HENRY] THRING, *PRACTICAL LEGISLATION* (2d ed. 1902).

70. *Id.* at 93. Thring also noted the "logical and political antagonism of arrangement" of elements such as a short title and definitions within a piece of legislation. He thought that "[l]ogically, their proper place is at the beginning of the Act," but recognized that "[p]olitically, their proper place is at the end of the Act, as a definition frequently narrows or widens the whole scope of an Act, and Parliament cannot possibly judge whether such narrowing or widening is or is not expedient till they are acquainted with the Act itself." He thought that the draftsman should generally "adhere to the political and not to the logical rule, and to place the sections in question at the end of the Act." *Id.* at 96–97.

71. 55 & 56 Vict., c. 10.

72. 59 & 60 Vict., c. 14. The Short Titles Act 1896 "authorised the citation of some 2,000 Acts by specified short titles." *STATUTE LAW REVISION*, *supra* note 59, ¶ 4.2. It appears as though all of the short titles are topical and none refers to an individual. It seems that in fact there is a significant difference between the United States and the United Kingdom in that while the unofficial popular names followed similar courses in referring to sponsors, Parliament has stuck to descriptions of the legislative content when enacting official short titles, whereas the United States has not.

73. In addition to the two late nineteenth century Short Titles Acts, at least five other acts contained provisions authorizing the citation of an included schedule of acts by short titles. *STATUTE LAW REVISION*, *supra* note 59, ¶ 4.1.

74. See, e.g., *UK Public General Acts*, LEGISLATION.GOV.UK, <http://www.legislation.gov.uk/ukpga> (last visited Nov. 16, 2012) (listing, by short title, the most recent legislative enactments of the U.K. Parliament).

not) for their proponents in Congress was the most common naming convention. As we might expect from the continuing salience of tariffs as a political issue, tariff acts were especially prone to having popular names. The 1846 Walker Tariff Act⁷⁵ and the Wilson Tariff Act of 1894⁷⁶ are examples. This continued well into the twentieth century, as evidenced by the famous Smoot Hawley (Tariff) Act of 1930, which was also known as the Tariff Act of 1930.⁷⁷ The Fordney-McCumber Act of 1922⁷⁸ seems to have even had an official short title naming it the Tariff Act of 1922.⁷⁹ This was one of the earliest American officially enacted short titles. Nonetheless, it appears still to have been more familiar to lawyers and others through its popular name (based on the names of its sponsors) than it was under its official short title.

¶21 Earlier, though, in 1918, there had been a spate of formal short titles (the earliest of which we are aware): the Soldiers and Sailors Civil Relief Act of 1918,⁸⁰ the Third Liberty Bond Act of 1918,⁸¹ and the District of Columbia Minimum Wage Law.⁸² This may have been due to the growing influence on drafting of the Office of the Legislative Counsel, formally legislated into existence in 1919.⁸³

The Triumph of the Enacted Short Title

¶22 By 1920 there were a number of laws with formal short titles: the National Prohibition Act,⁸⁴ the Transportation Act, 1920;⁸⁵ and the Merchant Marine Act, 1920.⁸⁶ Some of these still had popular but unofficial names based on congressional sponsors or proponents.⁸⁷ As seen in these examples, a number of acts enacted around 1920 include the year following a comma rather than an “of.” We still see this practice in some laws, notably appropriations laws,⁸⁸ but it did not seem to stick for most short titles, which have gone back to the “of” format when referring to the year.⁸⁹ One wonders if it was part of a more general argument within the

75. Ch. 74, 9 Stat. 42.

76. Ch. 349, §§ 73–77, 28 Stat. 509, 570.

77. Ch. 497, 46 Stat. 590.

78. Ch. 356, 42 Stat. 858.

79. *Id.* § 647, 42 Stat. at 990.

80. Ch. 20, 40 Stat. 440 (short title at § 604, 40 Stat. at 449).

81. Ch. 44, 40 Stat. 502 (short title at § 8, 40 Stat. at 506). The act also amended two earlier pieces of legislation to give them the short titles the “First Liberty Bond Act” and the “Second Liberty Bond Act.” *Id.* § 7.

82. Ch. 174, 40 Stat. 960 (1918) (short title at § 23, 40 Stat. at 964).

83. Revenue Act of 1918, ch. 18, § 1303, 40 Stat. 1057, 1141 (1919). That original incarnation called the office the Legislative Drafting Service.

84. Ch. 85, 41 Stat. 305 (1919). The short title of the act was included at the beginning, rather than at the end.

85. Ch. 91, 41 Stat. 456.

86. Ch. 250, 41 Stat. 988.

87. For example, according to the popular name table, the National Prohibition Act was also known as the Volstead Act, and the Merchant Marine Act, 1920 was known as the Jones Act.

88. *E.g.*, Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010, Pub. L. No. 111-80, 123 Stat. 2090; Consolidated Appropriations Act, 2010, Pub. L. No. 111-117, 123 Stat. 3034; Department of Homeland Security Appropriations Act, 2010, Pub. L. No. 111-83, 123 Stat. 2142.

89. *E.g.*, Diesel Emissions Reduction Act of 2010, Pub. L. No. 111-364, 124 Stat. 4056 (2011); Don’t Ask, Don’t Tell Repeal Act of 2010, Pub. L. No. 111-321, 124 Stat. 3515; Indian Arts and Crafts Amendments Act of 2010, Pub. L. No. 111-211, tit. I, 124 Stat. 2258, 2258.

Office of the Legislative Counsel about the two alternative forms. For while the Office of the Legislative Counsel consensus seems to favor the “of” format for short titles, it favors the comma for a citation to a title of the *United States Code*. So we now more commonly see “title 5, United States Code” where we would once have seen “title 5 of the United States Code.” Perhaps this was a Solomonic judgment to satisfy irreconcilable stylistic claims. Or perhaps use of the comma originated outside the Office of the Legislative Counsel and was gradually replaced by the “of” style.

¶23 That the late teens and 1920s mark the somewhat tardy advent of the official short title in American usage may not be coincidental—the Office of the Legislative Counsel gained formal status in 1919. The Office’s founders seem to have been much influenced by their British counterparts.⁹⁰ The Office would have had some additional inducements to encourage the use of enacted short titles. There was no Lord Brougham’s Act dispensing with the need to cite previous acts by their long titles. At the same time, there were more, and longer, acts of Congress that copiously amended earlier acts. Each amendment needed to be phrased with reference to the earlier act it was amending. Repeating the full long title citation for each amendment, especially as long titles were getting longer and longer, would surely be an unpleasant chore and not very conducive to the readability of the draft. Likewise, effective dates and other similar provisions keyed to the enactment of other statutes would be much less cumbersome if an official short title could be used. The formula for introducing a short title is “This Act may be cited as . . . ,” evincing a concern not only about what the act was called in common parlance, but also about how a drafter could refer to it later or in other laws.⁹¹

¶24 But where in the bill the short title would appear was not immediately settled. At first, they were sometimes at the end of the bill and seem to have attracted little attention other than among lawyers (or perhaps drafters in the

90. See Harry W. Jones, *Bill-Drafting Services in Congress and the State Legislatures*, 65 HARV. L. REV. 441, 443 (1952) (“The form of organization of the Office of the Legislative Counsel of the Congress of the United States was, in part, patterned on the Office of the Parliamentary Counsel to the Treasury. At the hearings which preceded the establishment in 1918 of the congressional drafting office, Lord Bryce, then British Ambassador to the United States, made an unusual appearance, at committee invitation, to explain at length the status and technical responsibilities of the Parliamentary Counsel.”).

91. Even before the practice of including short titles took hold, there is evidence that drafters of later amendatory provisions found citing to an act’s long title unduly cumbersome. For example, a 1917 law authorized the Secretary of Agriculture to permit mining on public lands obtained under the provisions of a law enacted six years earlier. The 1911 act’s official title was lengthy: “An Act To enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers.” Act of Mar. 1, 1911, ch. 186, 36 Stat. 961. Perhaps recognizing the difficulty of citing to the 1911 act by its official title, the 1917 act referred to it as “the Act of March first, nineteen hundred and eleven (Thirty-sixth Statutes, page nine hundred and sixty-one), known as the Weeks law.” Act of Mar. 4, 1917, ch. 179, 39 Stat. 1134, 1150. The citation to the 1911 law indicates that in common parlance—at least of the legislative drafters—it was known by the name of its House sponsor, John Weeks of Massachusetts. See *Passing the Weeks Act*, FOREST HISTORY SOC’Y, <http://www.foresthistory.org/ASPNET/Policy/WeeksAct/PassingAct.aspx> (last visited Oct. 16, 2012). See also *infra* ¶ 27.

Legislative Counsel's Office who put them in for technical reasons). In one case, the short title appeared in the definitions section.⁹² Many bills, probably including most of those drawn up outside the Office, continued to have no short title at all. And even those from within the Office often did not have short titles. This may have been because it seemed unlikely to the drafters that these bills would ever be amended or otherwise need cross-referencing. Even today, inclusion of a short title is still considered optional, though it has become the prevailing practice.⁹³

Formal Short Titles Waver in and out of Vogue from 1928 to the 1970s

¶25 From about 1928 to 1931, enacted short titles were rarer again, even for acts that ultimately were often cited, such as the Davis-Bacon Act;⁹⁴ after that, they reappear. During this time, many acts continued to have unenacted popular names derived from their sponsors' names. Perhaps because this was a relatively quiet time for new major legislation, there were few acts sufficiently likely to be constantly cited and amended.

¶26 During the New Deal era, we again see more formal and descriptive short titles.⁹⁵ Some well-known New Deal laws did not have enacted short titles and are known instead mostly by their sponsors' names.⁹⁶ The New Deal, however, opened the door to official titles recognizing sponsors of the legislation with the Bankhead-Jones Farm Tenant Act.⁹⁷ Signed by President Roosevelt on July 22, 1937, the law provided loans to tenant farmers to purchase their land or new equipment. It was written and shepherded through the legislative process by Sen. John Bankhead of Alabama and Rep. John Jones of Texas, each the chair of his respective chamber's committee with jurisdiction over the bill. The legislation carried a variety of descriptive names throughout the legislative process, but was titled the Bankhead-Jones Farm Tenant Act by an amendment offered by Sen. Barkley of Kentucky.⁹⁸ The novelty of naming a law for its sponsors did not go unnoticed, and Oregon Senator McNary remarked "it is the first time in the history of legislation that an act has been designated officially in the act itself by the name of the author."⁹⁹

¶27 Senator McNary was wise to choose his words carefully—although our research can back up his statement that the Bankhead-Jones Farm Tenant Act was

92. Railroad Retirement Act (Hatfield-Keller Railroad Retirement Act), ch. 868, § 1(m), 48 Stat. 1283, 1284 (1934) ("The term 'Railroad Retirement Act' means and may be used in citing this Act and subsequent amendments thereto.").

93. Despite its prevalence, there does seem to be little in the way of formal guidance on the use of short titles in federal legislation. See Jones *supra* note 23, at 462–65 (discussing the rules for short titles in the Drafting Manual for the House of Representatives).

94. Ch. 411, 46 Stat. 1494 (1931) (regulating wages for workers on government buildings).

95. E.g., Securities Act of 1933, ch. 38, 48 Stat. 74; Banking Act of 1933, ch. 89, 48 Stat. 162 (popularly known as "Glass-Steagall"); Farm Credit Act of 1933, ch. 98, 48 Stat. 257; Gold Reserve Act of 1934, ch. 6, 48 Stat. 337; Securities Exchange Act of 1934, ch. 404, 48 Stat. 881.

96. E.g., Wagner Peyser Act, ch. 49, 48 Stat. 113 (1933); Walsh Healey Act, ch. 881, 49 Stat. 2036 (1936) (amended to include "Walsh-Healey Act" as the short title by the Federal Acquisition Streamlining Act of 1994, Pub. L. No. 103-355, § 10005, 108 Stat. 3243, 3409).

97. Ch. 517, 50 Stat. 522 (1937).

98. 81 CONG. REC. 6760 (1937); see also James G. Maddox, *The Bankhead-Jones Farm Tenant Act*, LAW & CONTEMP. PROBS., Oct. 1937, at 434, 446 n.26.

99. 81 CONG. REC. at 6760.

the first appearance of a sponsor's name in the act itself, at least one earlier piece of legislation made official use of a popular reference to a bill's sponsor. On March 1, 1911, President Taft signed legislation that allowed the federal government to purchase private lands to protect the headwaters of rivers and watersheds in the eastern part of the country.¹⁰⁰ Although officially without a short title, the law was popularly known for its author, Republican Rep. John Wingate Weeks, of Massachusetts.¹⁰¹ Six years later, a provision in the 1917 Department of Agriculture appropriations bill granted the Secretary power to permit mining on "lands acquired under the Act of March first, nineteen hundred and eleven (Thirty-sixth Statutes, page nine hundred and sixty-one), known as the Weeks law."¹⁰² We believe this is the first instance in which a sponsor's name was incorporated into enacted legislation.

¶28 After the flurry of legislative activity accompanying the New Deal, there were relatively fewer enacted short titles until a burst after the Second World War.¹⁰³ Formal short titles were probably of more interest to drafters than to the general public, and it could be that the use of short titles continued to be confined mainly to bills that the Office of the Legislative Counsel expected to amend later. Well into the twentieth century, there were few such bills, and correspondingly few short titles. Of course, during this same time the Office of the Legislative Counsel by no means had a monopoly on drafting legislation. Many committees had their own drafters or relied on executive branch officials for drafts.

¶29 By the late 1940s, short titles, where they existed, frequently appeared as an undesignated first section immediately after the enacting clause, moving toward the current norm of having them at the beginning of the statute or title they name.¹⁰⁴ But some short titles, like that of the Atomic Energy Act of 1946, still appeared at the end of the act.¹⁰⁵

¶30 As late as the 1960s, there seem to be few, if any, acts of Congress that contained more than one short title, or short titles applicable only to some portion of

100. Act of Mar. 1, 1911, ch. 186, 36 Stat. 961.

101. *Passing the Weeks Act*, *supra* note 91.

102. Act of Mar. 4, 1917, ch. 179, 39 Stat. 1134, 1150.

103. *E.g.*, National School Lunch Act, ch. 281, 60 Stat. 230 (1946); Administrative Procedure Act, ch. 324, 60 Stat. 237 (1946); Labor Management Relations Act, 1947, ch. 120, 61 Stat. 136. The Labor Management Relations Act, 1947, is more commonly known as the Taft-Hartley Act, and has been referred to as such in subsequent legislation, *see* Ocean Shipping Reform Act of 1998, § 106(b), Pub. L. No. 105-258, 112 Stat. 1902, 1907, perhaps showing the tension between the lingering custom of popularly naming bills for sponsors on the one hand and the new system of formal short titles based on the subject of the bill on the other.

104. *E.g.*, National School Lunch Act, ch. 281, 60 Stat. 230 (1946); Hospital Survey and Construction Act (Hill-Burton Act), ch. 958, 60 Stat. 1040 (1946); Klamath Welfare Act, ch. 160, 62 Stat. 92 (1948). The practice of including short titles in an undesignated first section occurred sporadically through the 1970s. *E.g.*, Magnuson-Moss Warranty—Federal Trade Commission Improvement Act, Pub. L. No. 93-637, 88 Stat. 2183 (1975); Fishery Conservation and Management Act of 1976 (Magnuson-Stevens Fishery Conservation and Management Act), Pub. L. No. 94-265, 90 Stat. 331; Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act, Pub. L. No. 95-270, 92 Stat. 220 (1978).

105. Ch. 724, § 21, 60 Stat. 755, 775. *See also, e.g.*, Army Aviation Cadet Act (Reynolds Aviation Training Act or Sheppard Aviation Training Act), ch. 165, § 8, 55 Stat. 239, 240 (1941); Portal-to-Portal Act of 1947 (Gwynne Act), ch. 52, § 15, 61 Stat. 84, 90.

the act. Both of these practices would later become much more common. This may reflect the fact that short titles were still somewhat in the legislative drafting shadows as compared with other means of naming statutes. The more recent practice may also be indicative of a larger change in the legislative process—the advent of omnibus legislation. In the 1970s, Congress first began to consider some legislation with an expanded scope, often incorporating the work of multiple committees in the process.¹⁰⁶ The percentage of the congressional agenda taken up by omnibus measures has increased steadily in the decades since and can be attributed, at least in part, to politically strategic legislative choices.¹⁰⁷ The rise of short titles for titles or sections of larger pieces of legislation may reflect the political deals struck in crafting the omnibus legislation.¹⁰⁸

¶31 As we have seen, and as the official popular name table often reflects, it seems common in the mid-twentieth century for even those laws that enacted their own short titles to also have popular titles that may have been more often used in common practice. These unenacted popular titles nearly always memorialize the name of the legislation's sponsors. The Federal Boating Act of 1958,¹⁰⁹ for example, was also commonly referred to as the Bonner Act,¹¹⁰ after the sponsor of the legislation, Herbert Bonner, who served as chairman of the Committee on Merchant Marine and Fisheries during the bill's two-year consideration in the House.¹¹¹

¶32 In the 1960s, we see a rebirth of the vogue for official short titles after something of a dry spell, during which legislation continued to have unenacted

106. BARBARA SINCLAIR, UNORTHODOX LAWMAKING: NEW LEGISLATIVE PROCESSES IN THE U.S. CONGRESS 154 (2012).

107. *Id.* at 154–55 (“During the 1980s the Democratic majority-party leadership sometimes decided to package legislation into omnibus measures as part of a strategy to counter ideologically hostile Republican presidents, especially Ronald Reagan By packaging disparate and individually modest provisions on salient issues such as trade, drugs, or crime into an omnibus bill, Democrats sought to compete with the White House for media attention and public credit.”).

108. It may also simply be an easier story to sell to the media and to voters that Rep. Smith won a legislative victory by passing his “Saving Babies” law if, rather than simply incorporating the substantive provisions into the omnibus bill, a section of the larger measure is titled the “Saving Babies Act.” The same may be true for naming sections of legislation for crime victims, as is the case with many of the individually named subdivisions of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248, 120 Stat. 587. *See* Jones, *supra* note 23, at 463 (discussing the “plethora of smaller acts, and thus short titles” within the Adam Walsh Act).

109. Pub. L. No. 85-911, 72 Stat. 1754.

110. *See, e.g.*, Robert B. Jack, Note, *Self-Policing of Ocean Shipping Conferences*, 20 STAN. L. REV. 724, 727 (1968) (“In 1961 . . . Congress passed the Bonner Act”). Another example of this convention is the act bearing the official short title the “Labor-Management Reporting and Disclosure Act of 1959,” Pub. L. No. 86-257, 73 Stat. 519, which is listed in the popular name table as both the Landrum-Griffin Act and the Griffin-Landrum Act. Not all legislation with an enacted short title different from its popular name pays homage to its sponsor, however. The Agricultural Trade Development and Assistance Act of 1954, ch. 469, 68 Stat. 454, was initially referred to by its public law number, as “PL 480.” President Kennedy then changed the unofficial name to the Food for Peace Act in 1961. *The History of Food Aid*, US FOOD AID AND SECURITY, <http://foodaid.org/resources/the-history-of-food-aid/> (last visited Oct. 17, 2012). The act was amended to make “Food for Peace Act” an official short title in 2008. Food, Conservation, and Energy Act of 2008, Pub. L. No. 110-246, § 3001, 122 Stat. 1651, 1820.

111. *See generally* 104 CONG. REC. 14287–315 (1958) (floor consideration of the Federal Boating Act of 1958 in the House of Representatives).

popular names, often very similar to what might have been a formal short title, had someone decided to enact one. The 1960s use of official short titles seems to be especially common in legislation that was thought of as either particularly important or likely to be amended later because of rapidly changing societal conditions, or both.¹¹² We also see some short titles that omit the word *act* altogether.¹¹³ It seems that, particularly in the case of the Civil Rights acts, the public debate and later references to the acts began to use the short titles as the key means of identification.

¶33 In the 1970s we see the final triumph of the short title, which has pretty much lasted ever since. Even rather obscure acts, such as the Little Cigar Act of 1973,¹¹⁴ began to have their own official names. Moreover, people seem increasingly to have used those names in common parlance to refer to the bills and the laws they became. The short title had freed itself from being solely a technical device for drafters and had become a real name for the act to which it was attached. So much of a reflex has it become to include a short title that it seems some bill boilerplates must now include one. For example, we have the oddly named “_____ Act of _____,” which is the official short title of Public Law 111-226, enacted August 10, 2010.¹¹⁵

¶34 In part because of the drafters’ desire for convenience and brevity in amending older acts, Congress has retrospectively enacted popular names of some older acts into law as short titles. This occurred mainly after 1970, and may reflect the expanded role of the Office of the Legislative Counsel in the work of other committees, such as the House Judiciary Committee, after passage of the Legislative Branch Reorganization Act of 1970.¹¹⁶ The most concentrated effort to enact the popular but unofficial names for legislation appears in the final section of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, which added enacted short titles to the Sherman Act, the Clayton Act, the Webb-Pomerene Act, and the Wilson Tariff Act.¹¹⁷

112. *E.g.*, Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. 241; Voting Rights Act of 1965, Pub. L. No. 89-110, 79 Stat. 437; Food for Peace Act of 1966, Pub. L. No. 89-808, 80 Stat. 1526.

113. *E.g.*, Food Additives Amendment of 1958, popularly known as the Delaney Amendment, Pub. L. No. 85-929, 72 Stat. 1784; Social Security Amendments of 1960, popularly known as the Kerr-Mills Social Security Act, Pub. L. No. 86-778, 74 Stat. 924.

114. Pub. L. No. 93-109, 87 Stat. 352.

115. Pub. L. No. 111-226, 124 Stat. 2389 (2010). *See also* 26 U.S.C. § 1 note (adding [sic] after noting the blank short title).

116. Pub. L. No. 91-510, 84 Stat. 1140.

117. Pub. L. No. 94-435, § 305, 90 Stat. 1383, 1397. The Hart-Scott-Rodino designation has its own interesting history as one of few pieces of legislation to break the two-name barrier. The law bears the names of Sen. Philip Hart (Mich.), Sen. Hugh Scott, Jr. (Penn.), and Rep. Peter Rodino (N.J.). Rodino was chair of the House Judiciary Committee, Hart was chairman of the Antitrust Subcommittee on Senate Judiciary, and Scott retired in 1976. In an interview for the Senate Historical Office Oral History Project, former Senate Judiciary Counsel Chuck Ludlam claimed that Rodino in fact “hated” the bill but allowed it to get through his committee, which was more liberal than he was, in exchange for having his name attached to the legislation. *Chuck Ludlam*, U.S. SENATE: ORAL HISTORY (Dec. 10, 2003), http://www.senate.gov/artandhistory/history/oral_history/Ludlam_chuck.htm (click on “Hart-Scott-Rodino” link).

A Rococo Efflorescence of Short Titles

¶35 Once the practice of including official short titles took hold, it began to be a means for political and other ends as well as technical ones. The tension between the two types of titles has continued to increase since then. A good short title to a professional drafter is short and dispassionately descriptive. To a politician it may be a means of selling the bill, embarrassing opponents, or honoring persons the politician wants to recognize. Since Congress is a political body as well as a legislative one, perhaps we should not be disturbed by this. On the other hand, in its extreme forms, it can interfere with the readability or usability of an act of Congress. Our search for the origins of these less dispassionate, official statutory names produced at least six overlapping categories of naming conventions: (1) laws named for the legislation's sponsor, (2) laws named for the victim of a crime, (3) laws named in honor of someone as a laudatory gesture, (4) laws named after an individual whose behavior exemplifies what the law is intended to remedy, (5) laws with short titles that produce an abbreviation that is itself a word, and (6) a "left-over" category of laws named with overtly political descriptions, but which do not fall easily into one of the other categories.

Sponsors

¶36 Although the use of sponsors' names to identify legislation has been common practice for more than a hundred years, the practice of including the names of sponsors in an enacted short title took root in the 1970s. With few exceptions,¹¹⁸ statutes are known by a hyphenated moniker that nearly always includes the last names of the primary House and Senate sponsors. Examples of this convention include the Stevenson-Wydler Technology Innovation Act of 1980,¹¹⁹ the Garn-St Germain Depository Institutions Act of 1982,¹²⁰ and the Sarbanes-Oxley Act of 2002.¹²¹ A less common convention is the use of two names to indicate bipartisan support. The Annunzio-Wylie Anti-Money Laundering Act, for example, was named for two House members: Democratic Rep. Frank Annunzio of Illinois and Republican Rep. Chalmers Wylie of Ohio.¹²² And even where the enacted short title remains descriptive, a piece of legislation may be referred to by its sponsors' names as it moves through the legislative process, in order to emphasize its bipartisan nature to other members. Perhaps the clearest example of this practice is found in the history of the Bipartisan Campaign Reform Act of 2002. Commonly referred to as BCRA (pronounced "bick-rah") by academics, the legislation was known as

118. A few statutes from the modern era are known by only one sponsor, such as the Antitrust Procedures and Penalty Act, Pub. L. No. 93-528, 88 Stat. 1706 (1974), known commonly as the Tunney Act, and the law commonly known as the Sisk Act, Pub. L. No. 90-174, 81 Stat. 531 (1967). See Arapaho and Roosevelt National Forests Land Exchange Act of 2004, Pub. L. No. 108-346, § 2(f)(2), 118 Stat. 1379, 1381, citing to Public Law 90-174 "commonly known as the 'Sisk Act.'" The Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1383, and the Gramm-Leach-Bliley Act, Pub. L. No. 106-102, 113 Stat. 1338 (1999), had three names.

119. Pub. L. No. 96-480, 94 Stat. 2311.

120. Pub. L. No. 97-320, 96 Stat. 1469.

121. Pub. L. No. 107-204, 116 Stat. 745.

122. Pub. L. No. 102-550, tit. XV, 106 Stat. 3692, 4044 (1992).

“Shays-Meehan” in the House—for Republican Christopher Shays and Democrat Marty Meehan—and as “McCain-Feingold” when it was considered in the Senate—for Republican John McCain and Democrat Russ Feingold.¹²³

Victims

¶37 Another convention for federal statutes is to name the legislation after a victim of the particular ill the law addresses. Perhaps the most well-known example of this convention is Megan’s Law, which requires convicted sex offenders to register with local law enforcement upon release from incarceration.¹²⁴ The federal law, along with its many state counterparts, is named for Megan Kanka, who was brutally raped and murdered in 1994 by a neighbor who had been convicted twice previously of being a sexual predator.¹²⁵ Interestingly, most other laws named for female victims follow the convention of Megan’s Law and use the victim’s first name only, even though the identity of the victim is known.¹²⁶ The more common convention for laws named for male victims, however, is to use both a first and a last name in the statute.¹²⁷

Laudatory (and Cautionary) Gestures

¶38 An additional convention for short titles is to honor individuals. Frequently the honorees are advocates associated with the fight for the legislation, such as the Lilly Ledbetter Fair Pay Act of 2009, named for the plant manager at Goodyear who famously sued the company for sex discrimination in its pay practices.¹²⁸ Even before the reign of the official short title, some laws had become known by the names of persons other than the sponsors, and not always to honor them.¹²⁹ Now formal short titles often used these names, though typically in conjunction with a description of the subject matter of the bill. Other laudatory names honor recently

123. Grant Fevurly, *Davis v. Federal Election Commission: A Further Step Towards Campaign Finance Deregulation and the Preservation of the Millionaires’ Club*, 81 U. COLO. L. REV. 627, 629 n.3 (2010).

124. Pub. L. No. 104-145, 110 Stat. 1345 (1996).

125. 142 CONG. REC. 10311 (1996) (statement of Rep. Dick Zimmer).

126. *E.g.*, Jennifer’s Law, Pub. L. No. 106-177, tit. II, 114 Stat. 35, 36 (2000); Aimee’s Law, Pub. L. No. 106-386, § 2001, 114 Stat. 1464, 1539 (2000); Kristen’s Act, Pub. L. No. 106-468, 114 Stat. 2027 (2000).

127. *E.g.*, Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, Pub. L. No. 103-322, tit. XVII, 108 Stat. 1796, 2038 (1994); Cameron Gulbransen Kids Transportation Safety Act of 2007, Pub. L. No. 110-189, 122 Stat. 639; Danny Keysar Child Product Safety Notification Act, Pub. L. No. 110-314, § 104, 122 Stat. 3016, 3028 (2008).

128. Pub. L. No. 111-2, 123 Stat. 5. *See also* Kate Pickert, *Lilly Ledbetter*, TIME, Jan. 29, 2009, <http://www.time.com/time/nation/article/0,8599,1874954,00.html>.

129. *E.g.*, Lindbergh Kidnapping Act, ch. 271, 47 Stat. 326 (1932) (making interstate kidnapping a federal crime and named for the kidnapped and murdered son of Charles Lindbergh); Shirley Temple Act, ch. 676, § 13(c), 52 Stat. 1060, 1068 (1938) (exempting child actors from child labor laws and named for the child actress); Hiss Act, ch. 1214, 68 Stat. 1142 (1954) (prohibiting payment of government annuities to employees convicted of crimes and named for the convicted spy Alger Hiss).

deceased members of Congress¹³⁰ or retiring members who are also the bill's sponsor.¹³¹

Abbreviations

¶39 As they began to have political salience, short titles grew long.¹³² People began to refer to these acts not by their lengthening short titles, but by acronyms based on abbreviations that were sometimes rather loosely drawn from those short titles. In effect, they developed short titles for the short titles. In doing so, they were in effect acknowledging that the official short title could no longer serve its original purpose of providing a handy reference to the act in question.

¶40 At first, abbreviations had no particular meaning in themselves and were entirely informal. For example, there was the abbreviation of the Intermodal Surface Transportation Efficiency Act of 1991, whose mostly fortuitous abbreviation created the amusing ISTEA (pronounced “ice tea”).¹³³ Soon, however, the abbreviations came to be designed to have a relevant meaning, if only an evocative one, relating to the bill. Sometimes the abbreviation was spelled out in the short title itself. We find an early example in the Support for East European Democracy (SEED) Act of 1989.¹³⁴ Consider, too, the Act for Reform In Emerging New Democracies and Support and Help for Improved Partnership with Russia, Ukraine, and Other New Independent States, or the FRIENDSHIP Act.¹³⁵ The short title was so long that there had to be another, shorter one, added entirely separately. The longer title was probably constructed with the intent of providing a plausible abbreviation that would lead to the shorter short title, which was likely the one intended for actual use. Unlike ISTEA, the abbreviated title of the FRIENDSHIP Act hinted at its purpose. This also led to the use of short titles that would pack a political punch relating to the purpose of the bill, either by the use of an acronym or directly.

130. *E.g.*, the Jacob K. Javits Gifted and Talented Students Education Act of 1988, Pub. L. No. 89-10, tit. IV, pt. B, 102 Stat. 130, 237 (named for Sen. Javits of New York, who died in 1986); Stephanie Tubbs Jones Organ Transplant Authorization Act of 2008, Pub. L. No. 110-426, 122 Stat. 4835 (named for Rep. Tubbs Jones of Ohio, whose organ donation at her death in August 2008 is credited with spurring an increase in organ donation in her home state of Ohio, *see* Angela Townsend, *Tubbs Jones' Organ Donation Inspired Many Others; Rise in Numbers Called Testament to Legacy*, PLAIN DEALER (Cleveland), Apr. 20, 2009, at A1).

131. *E.g.*, Augustus F. Hawkins–Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, Pub. L. No. 100-297, 102 Stat. 130; Tom Osborne Federal Youth Coordination Act, Pub. L. No. 109-365, tit. VIII, 120 Stat. 2522, 2594 (2006). The most frequent occurrence of this practice seems to accompany the annual authorizing legislation for the Department of Defense, which was named for Senate Armed Services Committee Chairman Strom Thurmond in 1999, Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, Pub. L. No. 105-261, 112 Stat. 1920 (1998); for House Armed Services Committee Chairman Floyd Spence in 2001, Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, Pub. L. No. 106-398, 114 Stat. 1654 (2000); and for House Armed Services Committee Chairman Ike Skelton in 2011, Ike Skelton National Defense Authorization Act for Fiscal Year 2011, Pub. L. No. 111-383, 124 Stat. 4137.

132. *See, e.g.*, Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992, Pub. L. No. 102-259, 106 Stat. 78.

133. Pub. L. No. 102-240, 105 Stat. 1914.

134. Pub. L. No. 101-179, 103 Stat. 1298.

135. Pub. L. No. 103-199, 107 Stat. 2317 (1993).

¶41 Acronyms of short titles associated positive things with the bill they labeled.¹³⁶ Some amounted to slogans in favor of their own passage: Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (with a similarly editorial acronym, the SAFETY Act).¹³⁷ So, too, with the Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act of 2003, also short-titled the PROTECT Act,¹³⁸ and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003, the CAN-SPAM Act of 2003.¹³⁹

¶42 Eventually this approach would come to encourage long and twisting “short titles” that abbreviated to something politically evocative, such as the USA PATRIOT Act,¹⁴⁰ the original “short title” of which is quite a mouthful. Rumor has it that staff spent a great deal of their time during the rather hurried consideration of the act devising this short title. This trend continues with acts such as the Securing the Protection of our Enduring and Established Constitutional Heritage Act, or the SPEECH Act.¹⁴¹ Perhaps the most creative use of an abbreviation in a short title was the 2005 transportation legislation steered by Rep. Don Young. He named the act the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, or SAFETEA-LU, supposedly as a nod to his beloved wife, Lu Young.¹⁴² By the 1990s, the triumph of the short title was so complete that many did not realize the official title of the bill was the “long title.”

Politically Charged Descriptions

¶43 One final convention for naming statutes that we identified is the politically charged description. Names like the “Pro-Children Act of 2001”¹⁴³ or the “Justice for All Act of 2004”¹⁴⁴ put opponents of the legislation at a rhetorical disadvantage, implying they are anti-children or in favor of justice only for some. Brian Christopher Jones argues that some such names are also misleading, as they imply that the measure enacted will succeed.¹⁴⁵ To some extent, of course, nearly all legislative names that are more than a dispassionate description are politically charged. Legislators are, after all, in the business of passing legislation and getting credit for

136. *E.g.*, Legal Immigration Family Equity Act or LIFE Act, Pub. L. No. 106-553, tit. XI, 114 Stat. 2762-51, 2762A-142 (2000).

137. Pub. L. No. 107-296, subtit. G, 116 Stat. 2135, 2238.

138. Pub. L. No. 108-21, 117 Stat. 650.

139. Pub. L. No. 108-187, 117 Stat. 2699.

140. Pub. L. No. 107-56, 115 Stat. 272. The law’s full original short title was the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001.” The short title was amended in the 2005 reauthorization so that the law could be cited as either the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001” or the “USA PATRIOT Act.” USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177, § 101(b), 120 Stat. 192, 194.

141. Pub. L. No. 111-223, 124 Stat. 2380 (2010).

142. Pub. L. No. 109-59, 119 Stat. 1144 (2005). *See also* Elizabeth Bluemink, *Lu Young, Wife of Rep. Don Young, Dies*, ADN.COM: ANCHORAGE DAILY NEWS, Aug. 2, 2009, <http://www.adn.com/2009/08/02/885403/lu-young-wife-of-rep-don-young.html>.

143. Pub. L. No. 107-110, tit. IV, 115 Stat. 1425, 1773 (2002) (prohibiting smoking in buildings devoted to children’s services).

144. Pub. L. No. 108-405, 118 Stat. 2260.

145. Jones, *supra* note 23, at 458–59.

doing so with the voters. The opportunity to enhance the chances of success by making nonsubstantive changes to a bill's name is an easy choice.

Conclusion

¶44 The use of official short titles in the United States remained rare until the 1970s but by the 1990s had become all but mandatory.¹⁴⁶ However, their very popularity has led to their increasing use for political reasons rather than as a means of providing a needed short reference to a given law that otherwise has none. A tension between political ends and technical ones is not unnatural, or even necessarily bad. Both ends can be served, as they probably are fairly well in short titles such as the Plain Writing Act of 2010¹⁴⁷ and perhaps less so in the Sarbanes-Oxley Act of 2002,¹⁴⁸ or the No Child Left Behind Act of 2001.¹⁴⁹ Neither of these last two does much to tell us about the subject matter of the law, and so they lack the pithy elegance of such titles as the Social Security Act or the Securities Act of 1933. But they serve well enough as short monikers, even if they also make politically salient, even partisan, comments on the law they label. Perhaps little harm is done in practice by allowing two short titles, one long and tendentious and the other short and evocative (and perhaps tendentious as well) and allowing the long one to fade away from disuse.

¶45 Public participation in the legislative process is fostered by developments such as broad access to the Internet, which makes legislative documents freely available in real time. Memorable short titles can be a democratizing phenomenon but can also mislead. Unneeded complications and embellishments impede the open and honest assessment of the intended effect of a proposed or enacted law. They may also bring the law, and perhaps the lawmakers, into contempt by seeming too narrowly partisan.

¶46 Statutory names reflect competing considerations. Short titles are indeed useful, almost necessary, to provide a simple and uniform method of citing acts of Congress. Lengthy short titles do not serve the goal of simple and uniform nomenclature and should be avoided. Multiple titles for the same law are an open invitation to confusion. To be sure, there may be political advantage in unwieldy or strange short titles, and hence the temptation to employ them will be ever present. Still, it is not difficult to see the technical disadvantages. Unless legislators exercise self-control in the matter, we may discover that some other convention is needed to fill the role previously played by popular names and, more recently, by short titles.

146. There are still exceptions. *See, e.g.*, Act of Apr. 6, 1994, Pub. L. No. 103-321, 108 Stat. 333 (compliance dates for pesticide safety training and labeling requirements); Act of July 29, 1998, Pub. L. No. 105-209, 112 Stat. 880 (election of the Delegate from Guam); Act of May 30, 2002, Pub. L. No. 107-185, 116 Stat. 587 (refugee status of children of Vietnamese refugees); Act of July 1, 2008, Pub. L. No. 110-257, 122 Stat. 2426 (status of African National Congress).

147. Pub. L. No. 111-274, 124 Stat. 2861.

148. Pub. L. No. 107-204, 116 Stat. 745.

149. Pub. L. No. 107-110, 115 Stat. 1425.