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Michigan Chapter American Association of Law Libraries

PRESIDENT'S COLUMN

December, 2008

Volume 27, Issue 2

Happy Holidays!

With Thanksgiving so late this year, and one day away, the rest of the Holidays will not be far behind. Looking back - I'm not quite sure where this year has gone.



The committees in MichALL have been active this year. The Pro Bono committee has met and discussed possible activities that can be initiated locally, such as research for legal aid defenders and reviewing what is being done to assist public libraries/librarians with collection development to assist pro se patrons. The committee is also considering the possibility of providing seminars to educate public librarians on the type of assistance they can safely provide their patrons. The Public Relations committee is looking at ways to promote MichALL, and also ways to promote the field of law librarianship as a career option, not only in library schools, but law schools as well. And of course the Education committee is busy planning the program for the spring meeting, which is going to be held early this year, April 3, 2009 - so save the date. The meeting will be held in Lansing. The Newsletter committee is active and is putting out 3 newsletters this year. In January, the Nominations committee will meet to choose a new slate of officers for next year. If you are not on a committee and would like to help with any of these endeavors, please let me know. I know the committees would be happy to have more members.

It was nice to see those that were able to attend the fall dinner. Although not many were able to attend, we had a very nice time and great food. It was nice to see so many new faces and much there was *gut Gemütlichkeit* (German for comfortable ambience). As you can see I'm studying German this year.

The Executive Board has written a survey for surveying the membership of MichALL to determine how we can best serve the membership. What it is that you are looking for from MichALL and ways that we may be able to assist you. The survey will be sent out to members of MichALL and those recent members that are no longer members via Survey Monkey during the week of December 1st. We know it is a busy time, but we really would appreciate your taking the time to respond to the survey.

Please enjoy the Holidays, however you celebrate them, and enjoy the time with family and friends.

Aletha Honsowitz
President MichALL 2008-2009



MichALL Board Announces Survey



MichALL needs your help. In order to plan for the future of MichALL to determine how the Association can best serve its members, the MichALL Board is sending out a short survey to all its members by e-mail. The survey is anonymous and should only take about 10 to 15 minutes to complete it.

The survey can be found at: <http://www.zoomerang.com/Survey/?p=WEB228JJ2J2K5T> and will stay open until January 12, 2009. If you have any questions regarding this survey, please contact one of the Board members.

How To Join MichALL:

If you haven't renewed or if you know someone who would like to join, you can print a copy of our membership form from the website:

<http://www.aallnet.org/chapter/michall/organization/join-michall.pdf>

The dues are still very modest at \$15.00. The Michigan Association of Law Libraries has a 100 year history of providing Michigan law librarians a sense of community and an opportunity to get involved.



Subscribe to MichALL Website Updates By RSS Feed: <http://www.aallnet.org/chapter/michall/rss/rss.htm>

Editor's Corner

It is beginning to look a lot like Christmas, Kwanzaa, Hanukkah, and any other winter holiday you want to celebrate. Law students are anxious to finish their final examinations and to get home to enjoy their families.

Even with all of their studying, many of these students found time to help out those less fortunate - you can read more about it in this newsletter. Our Fall Dinner was a great success - thanks to Barbara Bonge for her great pictures of our annual event.

Our next newsletter will be coming out in March and will have all the news regarding our Spring Meeting. Make sure you save the date - Friday, April 3, 2009. The meeting will take place in Lansing.

What is new in your neck of the woods? Let us hear about it. Please send us pictures, articles, interest items, cartoons, etc. to me at hedinj@law.msu.edu by February 20, 2009. Also, if you have ideas on how to improve this newsletter, let me know. After all - this is your newsletter.

Janet Ann Hedin, Editor



FEATURES - 2008 Fall Dinner (Recap)



MichALL Fall Dinner Another Success Janet Ann Hedin, MSU College of Law

Where were you on the evening of October 15, 2008? If you are a member of MichALL, then you were at its annual Fall dinner at Gilbert and Blake's in Okemos, Michigan. MichALL members socialized with each other while enjoying fabulous appetizers, delicious entrees, and of course, scrumptious desserts.

Aletha Honsowitz, MichALL President, greeted members from Detroit, East Lansing, and Grand Rapids while welcoming new members to the association. Honsowitz, in a short speech, relayed to members what MichALL has been involved in during the last several months and what new projects were in store for the association. Such projects include possibly working with the Canadian Law Library Association when they hold their conference in Windsor, Canada in 2010 and the possibility of establishing a scholarship or grant in honor of Pat Parker, a former MichALL President.

Members were also told to save the date for the annual MichALL Spring Meeting. This meeting will take place on Friday, April 3, 2009 in Lansing. Honsowitz lastly explained that the MichALL Board wanted to be sure that they were working on projects that were of interest to the members. Therefore, a short survey will be sent out to the membership in early December for their feedback.



FEATURES - Legal Holiday Traditions Around the World

Christmas and New Years are not federal holidays in every country, as they are here in the US. However, they are celebrated around the world with varying traditions from region to region.

Christmas

Christmas is not only celebrated by Christians. In Asia, a unique feature of Christmas in Japan is the type of Christmas cake. It is often a white whipped cream cake with strawberries. In all of the Southern Hemisphere, December 25th occurs during the height of the summer season. However, the traditions of Australia and New Zealand are quite similar to those of the UK and North America with wintry iconography, such as Santa in his fur trimmed coat and hat riding in a sleigh through snow covered scenes. In Russia, Christmas is celebrated on the 7th of January, which corresponds to December 25th in the Julian calendar. It is centered on the Christmas Eve "Holy Supper," which consists of twelve servings, one to honor each of Jesus' apostles. When it comes to giving presents, *Sinterklaasavond* (St. Nicholas Evening) on December 5th remains more important in the Netherlands than Christmas. *Sinterklaas* wears a tall bishop's hat and carries a crooked staff. He is said to reside in Spain, arriving by steamboat with his helper, *Zwarte Piet* (Black Pete). In Spain, Christmas holidays last from December 24th to January 6th and are referred to as *Navidad*. Most homes and churches display a Nativity scene. On January 5th, a huge parade welcomes the Three Kings to the city and children put their shoes in the window in hopes that they will deliver presents. On Saint Nicholas Day, December 6th in Germany, the devilish *Knecht Ruprecht* sometimes accompanies St. Nicholas to punish those who haven't behaved during the year. The UK Christmas season starts at Advent and lasts until Epiphany on January 6th. It is considered bad luck to have Christmas decorations up after this date. Mexican festivities



start on

December 12th and end on January 6th, the Feast of Epiphany, when the Three Wise Men bring gifts to baby Jesus and other children who have placed written requests in their shoes.

New Years

Since 1972, Dick Clark has hosted televised coverage of the dropping of the 1,070 pound, 6 foot diameter Waterford crystal ball on top of One Times Square, repeated for all four time zones in the continental US. But what do they do in other parts of the world? In South America, Ecuadorians construct elaborate effigies representing people and events from the past year. These effigies are lit on fire at midnight to symbolize the burning away of the past year and the welcoming of the new year. In Asia, Buddhist temples in Japan ring their bells 108 times to repent for the 108 elements of *bonno*, defilements said to be in people's minds. In the Philippines, traditions include wearing clothes with circular patterns like polka dots, throwing coins at the stroke of midnight, and serving circular-shaped fruits to attract money and fortune. People in New Zealand are first to see the new year due to its proximity to the International Date Line. In Spain, it is traditional to eat twelve grapes, one on each chime of the clock, making a wish with each one. This tradition has its origins in 1909, when grape growers thought of it as a way to cut down on the surplus they had that year. Elsewhere in Europe, municipalities all around Turkey organize fundraising events for the poor. In Scotland, it is customary to wait until the cannon is fired at Edinburgh Castle to indicate that the new year has begun. Mexicans who want to find love in the new year wear red underwear and yellow if they want money.

Holiday traditions vary greatly, but the spirit of the season is universal, bringing hope and making time to celebrate with family and friends! Happy holidays!

(Information compiled from Wikipedia and not verified.)

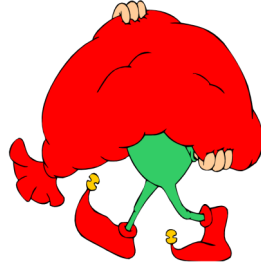
Jessica Fields, Reference Librarian

Thomas M. Cooley Law School, Grand Rapids

**FEATURES - Legal News Briefs
(Holiday Edition)**

WHOVILLE v GRINCH:

Grinch pleads guilty on multiple misdemeanor counts of breaking and entering and animal cruelty. Whos call for leniency, citing Grinch’s increased heart size. Grinch sentenced to community service and 3 years probation.



**BAILEY BUILDING & LOAN
ASSOCIATION v BAILEY:**



Chairman Potter and Board of Directors seek restitution for missing \$8,000. President George Bailey will face criminal charges of embezzlement. William “Uncle Billy” Bailey may also be brought up on charges, following bank examiner’s determination.

PARKER v BUMPUS:

Bumpus was ordered to pay damages in civil court after his hounds destroyed dining room furniture, serving dishes, and a turkey. Parker was held in contempt of court for repeatedly shouting, “Sons of #####! Bumpuses!”



STATE OF NEW YORK v KRINGLE:



District Attorney Thomas Mara was defeated in his motion to rule that Santa Claus does not exist in a commitment hearing before Judge Henry X. Harper of the New York Supreme Court. Represented by Fred Gailey, Kris Kringle purports to be the one and only *real* Santa Claus. Evidence will be heard this week. Character witnesses include R.H. Macy of Macy’s fame.

CRATCHIT v SCROOGE:

Counting House Clerk Bob Cratchit alleged Financier Ebenezer Scrooge had been illegally docking his pay, leaving him unable to support his family. Scrooge, who once claimed poor laws and workhouses sufficient to care for the poor, had a sudden change of heart and agreed to settle out of court for an undisclosed amount.



Jessica Fields, Reference Librarian
Thomas M. Cooley Law School, Grand Rapids

FEATURES - Law Firms and Law Student Updates

Law Firms and Law Students Have The Holiday Spirit

**Caralee Witteveen-Lane, Cooley Law School, GR
Janet Ann Hedin, MSU College of Law Library**

This year the true holiday spirit can be seen in many law firms and law schools throughout the United States. Many firms and other business and companies are foregoing their holiday parties in order to donate to different charities. Firms such as Foley & Lardner, USB, GrayRobinson, Fried Frank, and Red Hat decided that due to the economic times that everyone is going through, that it would be better suited to use their money to help different charities during the holiday season.

Red Hat Senior Vice President, DeLisa Alexander told Alan M. Wolf of The News & Observer that "We felt it was the wrong time to be spending a lot of money on ourselves." Lauren Matison of BizBash Chicago reported that USB was planning on donating a \$100,000 to two local children's charities instead of their usual party that had been hosted at Rockefeller Center. Rachel M. Zahorsky from the ABA Journal Law News Now reported that GrayRobinson decided to donate \$150,000 over their regular charitable commitments. "This year, we think that (this) needs to be done on a larger scale to ensure those in need have the resources to weather these tough times," the firm's founder J. Charles Gray said in a statement announcing the decision to cancel the firm's popular client holiday party.

Michigan law students are not to be outdone by these charitable acts. The Ave Maria School of Law Student Bar Association adopted a family to help out with this holiday season. Cooley Law Students worked with



Lighthouse of Oakland County to help feed one hundred families at Thanksgiving. MSU College of Law St. Thomas More Society and the Family Law Society adopted families for the holidays while their Student Bar Association collected cans and money during Harvest Week to donate to the Mid-Michigan Food Bank. Student organizations at U of D-Mercy, U of M, and Wayne State also helped out different charities during this holiday season.

MichALL would like to congratulate all these organizations for their efforts in helping out different charities during this holiday season. For further information about this story see the different school websites and also these sites:

<http://www.lawcrossing.com>

<http://www.newsobserver.com/business>

<http://www.bizbash.com/story>

<http://abajournal.com/news>

THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas Cases



By **Stephen Young**, Published on January 2, 2003

Stephen Young is a reference librarian at The Catholic University of America, Kathryn J. DuFour Law Library. Stephen has written extensively in the area of United Kingdom law, however in recognition of the holiday season he offers this lighthearted guide to the literature concerning the Supreme Court’s analysis of the Establishment Clause as it relates to the Christmas holiday.

“Now if this court rules against Santa Claus, they will have to judge which is worse. A lie that draws a smile, or a truth that draws a tear.” Miracle on 34th Street (1994)

Introduction

At the climax of the movie Miracle on 34th Street (originally released in 1947 and later remade in 1994) the court, described in the movie as the New York Supreme Court (presumably the 1st Judicial District), is given no choice but to recognize the existence of Santa Claus when the United States Postal Service delivers countless sacks of mail to the defendant, each handwritten letter addressed to Santa Claus. This emotionally charged scene never fails to bring a tear to the eye of every sentimental film buff and legal researcher.

However, the United States Supreme Court’s encounters with the Christmas holiday have so far not included the official recognition of Santa Claus (this is apparently now the responsibility of NORAD), and have also failed to recreate the same emotionally charged scene. Instead, the Court’s decisions have focused on the public display of symbols of the holiday season and whether they are in violation of the Establishment Clause (Amendment 1) of the United States Constitution. (A high resolution, and therefore slow to load image of the original document is available from the National Archives website.) Over the years the Court has rendered a number of “Christmas” opinions, which while devoid of the sentiment one might associate with the holidays, nonetheless constitute an important body of law. This guide will briefly outline the origins of Christmas and the ways in which the Supreme Court of the United States has encountered the holiday.

The History of Christmas

The feast of Christmas, the Christian celebration of the birth of Christ, has been in existence since at least 336 AD when it was first recorded in the Roman *Depositio Martyrum* (354), one of the earliest lists of martyrs and feasts. The English word “Christmas” is derived from the Old English term *Cristes Maesse*, which literally means the mass of Christ. Although there is no definitive explanation for why December 25th was chosen for this Christian festival, one theory has been posited that is worthy of consideration; the festival was assigned the date of the winter solstice (December 25 in the Julian calendar and January 6 in the Egyptian calendar), the day when the pagan followers of Mithra celebrated the birthday of the invincible sun and witnessed the return of the sun to northern skies. This also coincided with the Roman celebration of Saturnalia, a time of festivity and gift exchanging. The Bible provides no indication of the day or month of the birth of Christ, and only the Gospel according to Luke provides enough of a context to even guess at the year (generally regarded as being 6-8 AD). ➤

THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



The symbols that we now associate with the holiday, such as the Christmas tree, and carol singing, have been adopted by western cultures over a number of centuries. The Christmas tree originated in medieval central Europe as the Paradise Tree, a representation of the Garden of Eden in a popular play depicting Adam and Eve. Traditionally the tree was adorned with apples on December 24th and was often set up inside a church or home. The Christmas tree became popular throughout Western Europe and North America during the 19th century. Although most of today’s popular Christmas carols have only existed since the 19th century, the tradition of the Christmas carol or hymn dates back to the 5th century.

The recognition of Christmas as a federal holiday by the Congress of the United States began in 1870 with an act authorizing “the twenty-fifth day of December, commonly called Christmas Day” as a holiday within the District of Columbia (Act of June 28, 1870, ch. 167, 16 Stat 168). An 1885 joint resolution of Congress further authorized employees of various government departments to take the twenty-fifth of December as a holiday (J.Res. of January 6, 1885, No. 5, 23 Stat 516). Beginning in 1894, Congress enumerated all the public holidays, including Christmas, with the passage of 28 Stat 96, now codified at 5 USC 6103.

The Supreme Court of the United States

For almost the first two hundred years of its existence the Supreme Court did not address the issue of Christmas. A recent search through Supreme Court opinions revealed that there were no relevant references to Christmas prior to 1945. Following World War II and the erosion of Christian hegemony the court was brought more and more into the enforcement of the Establishment Clause of the First Amendment of the Constitution, and in so doing it was forced to grapple with one of the most sensitive and difficult issues the Court has had to confront; whether or not the celebration of Christmas is a religious or secular event. A search of post-1945 Supreme Court cases revealed relevant references in at least a dozen cases. The following cases highlight the Supreme Court’s attempt to clarify the law regarding the constitutionality of religious symbols during the Christian celebration of Christmas.

[Lynch v. Donnelly, 465 US 668 \(1984\)](#)

Of all the “Christmas” cases this is arguably the most important, not for what it achieved but rather for what it failed to achieve. At issue was whether the city of Pawtucket, Rhode Island was in violation of the Establishment Clause of the United States Constitution. Each year the city erected a seasonal display described by the Court as essentially like those to be found in hundreds of towns or cities across the Nation - often on public grounds - during the Christmas season. The Pawtucket display comprises many of the figures and decorations traditionally associated with Christmas, including, among other things, a Santa Claus house, reindeer pulling Santa’s sleigh, candy-striped poles, a Christmas tree, carolers, cutout figures representing such characters as a clown, an elephant, and a teddy bear, hundreds of colored lights, a large banner that reads “SEASONS GREETINGS,” and the crèche at issue here.

The Supreme Court, in a 5-4 decision, held that the display was constitutional, but in so doing it offered a confusing and ultimately ineffective application of the three-prong “*Lemon* test.”



THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



The *Lemon* test, first articulated by the Court in 1971 in *Lemon v. Kurtzman*, had become the predominant standard in determining Establishment Clause cases. The test had three elements: whether the statute has a secular purpose; whether the principle or primary effect of the statute advances or inhibits religion; and last, whether the statute fosters “an excessive government entanglement with religion.” In applying the test the Court repeatedly placed the actions of the city in the context of history and placed the religious symbols within the context of the secular symbols (the “plastic reindeer rule”). In concurring with the majority Justice O’Connor presented an alternative test, the two-prong endorsement test. This test, a “clarification of our Establishment Clause doctrine,” combined the purpose and effect prongs of the *Lemon* test and placed a strong emphasis on the message the symbol sent (i.e., was it an endorsement or disapproval of a religion). The Court reasoned that in the context of history the crèche was merely a symbol of a traditional holiday and was therefore no different from secular symbols recognizing the holiday.

Following the Supreme Court’s decision in *Lynch* a number of lower courts were thrown into confusion when they were presented with similar issues. A most notable example of this was *ACLU v. City of Birmingham*, 791 F.2d 1561 (1986), in which the 6th Circuit applied the endorsement test and determined that since the city, not a religious group owned the crèche it could be displayed. This case was appealed to the Supreme Court where cert. was denied, 479 US 939 (1986). However it would not be long before the ACLU was once again involved in a Christmas case before the Supreme Court.

County of Allegheny v. American Civil Liberties Union, 492 US 573 (1989)

In this 1989 decision (which includes the companion case *City of Pittsburgh v. American Civil Liberties Union*) the Supreme Court was once again faced with the issue of whether a government sponsored Christmas scene was in violation of the Establishment Clause of the Constitution. The Court held that a solitary crèche adorned with a banner proclaiming “Gloria in Excelsis Deo” placed in a courthouse was in violation of the First Amendment’s Establishment Clause, however an eighteen foot menorah and forty-five foot Christmas tree together with a sign saluting “liberty” displayed outside a government building were permissible. In reaching its decision the Court used both the *Lemon* test and the now established endorsement test advocated by Justice O’Connor in *Lynch*. The Court also placed considerable emphasis on the context (historical, seasonal and physical) in which these symbols were placed.

In rendering their decisions in *Lynch*, *Allegheny* and *Pittsburgh* the majority reasoned that the crèche in *Lynch* and the menorah in *Pittsburgh* were placed in an overwhelmingly secular context, while the crèche in *Allegheny* symbolized a religious Christmas since it was not “diluted” with other secular symbols (the “plastic reindeer rule”).

Kaplan v. City of Burlington, 496 US 926 (1990)

On appeal from the Second Circuit Court of Appeals (891 F.2d 1024) this case was denied cert. by the Supreme Court. At issue in this case was the placement in a city park by Burlington city officials of a solitary menorah during Chanukah. The lack of additional secular symbols combined with the clearly religious symbolism of the menorah resulted in the Court of Appeals declaring this a violation of the Establishment Clause. In making their decision the Court relied heavily on *Allegheny* and determined that the menorah in *Kaplan* was more like the crèche than the menorah in *Allegheny*. ➔

THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



ACLU v. Schundler, 520 US 1265 (1997)

On appeal from the Third Circuit Court of Appeals (104 F.3d 1435) this case was denied cert. by the Supreme Court. In response to a permanent injunction brought against Jersey City’s display of a menorah and crèche, the city officials added a wooden sled and figures depicting Santa Claus and Frosty the Snowman to the display. This attempt to secularize the display resulted in a modification to the District Court’s injunction, however the Third Circuit ruled that these attempts did little to alter the religious statement being made by the city. Further, the Third Circuit held that erecting and maintaining religious displays on government property was a clear violation of the Establishment Clause. It is clear that in their decision the Court of Appeals was trying to establish a stronger holiday display rule than the Supreme Court has so far been willing to do.

Ganulin v. United States, 532 US 973 (2001)

On appeal from the Southern District of Ohio (71 F.Supp 2d 824) and the Sixth Circuit Court of Appeals (unpublished), this case was denied cert. by the Supreme Court in the October 2001 term. At issue in this case was whether the federal government holiday of Christmas was in violation of the Establishment Clause of the Constitution. Richard Ganulin, an attorney with the city of Cincinnati, argued that by making Christmas Day a federal holiday Congress was in effect providing an ideological and financial subsidy for the Christian celebration of the birth of Christ. Both the District and Circuit courts upheld the constitutionality of the federal holiday. A copy of the respondent’s brief in opposition, filed with the Supreme Court, is available on the Becket Fund for Religious Liberty website.

Chabad of Southern Ohio v. Cincinnati, 537 US _ (2002)

On application to vacate stay from the Court of Appeal for the Sixth Circuit. This very recent opinion in chambers by Justice Stevens allowed the Chabad of Southern Ohio to light an 18-foot menorah in the city’s downtown Fountain Square. The effect of this last minute appeal to the Supreme Court (Justice Stevens is the Circuit Justice) was to lift the Court of Appeals stay on the District Court’s injunction of the city’s ordinance restricting the use of the square for a seven-week period.

This week (12/16/02) the full Supreme Court reaffirmed Justice Steven’s opinion and rejected the city’s arguments that it should be allowed to stop all private groups from using the square during the holidays.

Journal Articles

There are a large number of articles written about the Supreme Court and its interpretation of the Establishment Clause. The following list comprises only those journal articles focusing either exclusively or primarily on the Supreme Court’s Christmas cases. Journal articles with a broader scope are not included in this list.

- 15 *Touro Law Review* 1053 (Spring, 1999). *The Establishment Clause and Government Religious Displays: The Court that Stole Christmas*. Jennifer H. Greenhalgh.
- 107 *Yale Law Journal* 1969 (1998). *This Is Not A Crèche*. Laura Ahn. ➔

THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



Journal Articles (cont.)

- 22 Hastings Constitutional Law Quarterly 29 (Fall, 1994). *Endorsement as “Adoptive Action:” A Suggested Definition of, and an Argument for, Justice O’Connor’s Endorsement Test.* Joel S. Jacobs.
- 9 Journal of Law and Religion 211 (1991). *County of Allegheny v. American Civil Liberties Union: Embracing the Endorsement Test.* Steven A. Seidman.
- 41 DePaul Law Review 101 (1991). *Government Participation in Holiday Religious Displays: Improving on Lynch and Allegheny.* Bruce M. Zessar.
- 11 University of Bridgeport Law Review 727 (1991). *Allegheny County v. American Civil Liberties Union - Permissible v. Impermissible Government Display of Religious Symbols: The Trend Toward a Perspective of Neutrality.* Christine A. Atkinson.
- 35 Saint Louis University Law Journal 169 (Fall, 1990). *A Survey of the Supreme Court’s Approach to the Establishment Clause in Light of County of Allegheny v. American Civil Liberties Union.* Jeffrey R. Wagener.
- 26 Tulsa Law Journal 107 (Fall, 1990). *A Conservative Struggles with Lemon: Justice Anthony M. Kennedy’s Dissent in Allegheny.* Keith O. McArtor.
- 1 Maryland Journal of Contemporary Legal Issues 267 (Fall, 1990). *County of Allegheny v. American Civil Liberties Union: Symbolic Analysis Under the Establishment Clause.* David J. Roop, Jr.
- 40 American University Law Review 503 (Fall, 1990). *County of Allegheny v. American Civil Liberties Union: Evolution of Chaos in Establishment Clause Analysis.* Shahin Rezai.
- 43 Oklahoma Law Review 375 (Summer, 1990). *Constitutional Law: Religious Displays on Government Property: Where Do We Stand?* Dawn Brewer.
- 21 University of Toledo Law Review 933 (Summer, 1990). *County of Allegheny v. American Civil Liberties Union: Perpetuating the Setting Factor.* Matthew P. Kammerer.
- 28 Duquesne Law Review 445 (Spring, 1990). *Beyond the “Plastic Reindeer Rule:” The Curious Case of County of Allegheny v. American Civil Liberties Union.* George M. Janocsko.
- 24 Suffolk University Law Review 263 (Spring, 1990). *Constitutional Law - The Updated Lemon Test as Applied to Religious Displays - County of Allegheny v. American Civil Liberties Union, 109 S. CT. 3086 (1989).* Michael T. Caljouw.
- 25 New England Law Review 523 (Winter, 1990). *County of Allegheny v. American Civil Liberties Union: How the Bench Stole Christmas.* Richard A. Lacroix.



THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



Journal Articles (cont.)

- 13 Harvard Journal of Law and Public Policy 399 (Winter, 1990). *Religious Displays and the First Amendment: County of Allegheny v. American Civil Liberties Union*, 109 S.Ct. 3086 (1989). Barbara S. Barrett.
- 68 North Carolina Law Review 590 (March, 1990). *County of Allegheny v. American Civil Liberties Union: Justice O’Connor’s Endorsement Test*. Christopher S. Nesbit.
- 65 Notre Dame Law Review 671 (1990). *A Controversial Twist of Lemon: The Endorsement Test as the Establishment Clause Standard*. James M. Lewis Michael L. Vild.
- 1990 Wisconsin Law Review 1597 (1990). *Crèches, Christmas Trees and Menorahs: Weeds Growing in Roger Williams’ Garden*. David M. Cobin.
- 20 Stetson Law Review 217 (Fall, 1990). *Government, The Holiday Season, and the Establishment Clause: A Perspective on the Issues*. Gregory J. Blackburn.
- 15 Journal of Contemporary Law 313 (1989). *ACLU v. Allegheny County: No Room at the Inn, Courthouse, or City Hall*. David Olshan.
- 103 Harvard Law Review 228 (November, 1989). *The Supreme Court, 1988 Term: Government Sponsored Religious Displays*. Note.
- 55 UMKC Law Review 665 (1987). *Religious Displays: ACLU v. City of Birmingham. Establishment Clause Analysis of an Isolated Crèche since Lynch*. Note.
- 1986 Brigham Young University Law Review 465 (1986). *Lemon Reconstituted: Justice O’Connor’s Proposed Modifications of the Lemon Test for Establishment Clause Violations*. W. Scott Simpson.
- 35 American University Law Review 477 (Winter, 1986). *Of Crosses and Crèches: The Establishment Clause and Publicly Sponsored Displays of Religious Symbols*.
- 1985 University of Illinois Law Review 837 (1985). *The Nativity Scene Case: An Error of Judgment*. Norman Dorsen.
- 12 Southern University Law Review 97 (Fall, 1985). *Lynch v. Donnelly: The Rebirth of the Supreme Court’s Attitude Towards the Establishment Clause*. James Best.
- 71 Cornell Law Review 185 (November, 1985). *Lynch v. Donnelly: Breaking Down the Barriers to Religious Displays*. Glenn S. Gordon.
- 63 North Carolina Law Review 782 (April, 1985). *Lynch v. Donnelly: The Disappearing Wall*. Harriet Grant.



THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



Journal Articles (cont.)

- 98 Harvard Law Review 174 (November, 1984). *The Supreme Court, 1983 Term: Government Sponsored Nativity Scenes*. Note.
- 37 Vanderbilt Law Review 1175 (October, 1984). *The Lemon Test Soured: The Supreme Court’s New Establishment Clause Analysis*. Kenneth Mitchell Cox.
- 1984 Duke Law Journal 770 (September, 1984). *Trends in the Supreme Court: Mr. Jefferson’s Crumbling Wall - a Comment on Lynch v. Donnelly*. William Van Alstyne.
- 18 West’s Education Law Reporter 805 (1984). *Lynch v. Donnelly: A New Constitutional Standard in Establishment Cases?* Ralph D. Mawdsley.
- 37 Rutgers Law Review 103 (1984). *Supreme Court Approval of Publicly Sponsored Nativity Scene Displays Establishes an Unholy Alliance Between Church and State*. Note.
- 51 University of Cincinnati Law Review 353 (1982). *Publicly Funded Display of Religious Symbols: The Nativity Scene Controversy*. Note.

In addition to the above mentioned journal articles most texts and treatises on the subject of First Amendment rights, or law and religion include discussion of one or more of the Christmas cases. Two texts worth highlighting in this area are Steven Feldman’s *Please Don’t Wish Me a Merry Christmas: A Critical History of the Separation of Church and State* (1997), and Albert Menendez’s *The December Dilemma: Christmas in American Public Life* (1988).

Christmas at the Court

In keeping with most federal agencies, the Supreme Court adheres to the federal legal holidays listed in 5 USC 6103, including Christmas day (see for example, Rules of the Supreme Court of the United States, Rule 1.3). During the holiday season the Court is decorated with the traditional secular symbols of Christmas, including wreaths and a Christmas tree, and the Court’s gift shop sells ornaments celebrating the holiday season. Even the cafeteria located inside the Supreme Court building recognizes the holiday season by serving festive dishes. The Court also hosts an annual holiday party in the Great Hall of the Supreme Court building. The party, referred to as the Christmas Party, includes carol singing led by the Chief Justice accompanied by a pianist. It should be noted that traditionally the Court is in recess during the weeks surrounding Christmas.

Conclusion

The euphoric courtroom scenes following Judge Harper’s decision in *Miracle on 34th Street* have so far not been replicated inside the U.S. Supreme Court building. While the Supreme Court has effectively settled the question of whether the federal government should recognize the Christmas holiday, it still appears to have left unsettled the

THE ESTABLISHMENT “CLAUSE”: A Selective Guide to the Supreme Court’s Christmas (cont.)



Conclusion (cont.)

question of how it should be recognized. The body of literature that has critiqued the Christmas cases may differ on many points but they do share one common theme; the Court has created confusion by placing a stronger emphasis on the context in which Christmas symbols are placed than on the symbols themselves. The three-prong Lemon test, the two-prong endorsement test, and the “plastic reindeer rule” have all failed to provide a coherent methodology for analyzing the Establishment Clause in the context of Christmas, and we are therefore left waiting for a miracle on 1st Street NE to help resolve this most seasonal of issues. ■

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TREASURER'S REPORT

Ann Hudson, Treasurer



As of June 27, 2008, MichALL has \$7626.73 in its treasury. The May 15, 2008 Treasurer's report stated assets of \$8784.83.

Expenditures after the May 15 treasurer's report were:

West Michigan Caterers for catering for MichALL Spring Meeting in Grand Rapids	\$1064.43
Barbara Bintliff speaker airfare and hotel	\$814.37
Anne Hudson reimbursement for mailing out dues statements	\$17.80
City of Grand Rapids Treasurer for parking at Spring Meeting	\$126.50
Total of expenditures	\$2023.10

Deposits and receipts after the May 15 treasurer's report were:

Spring Meeting registrations	\$760.00
2008-2009 dues	\$105.00
Total of deposits and receipts	\$865.00

Present balance in treasury: **\$7626.73**



MICHALL OFFICERS AND HOW TO CONTACT THEM:

The MichALL officers are always available to hear your ideas for annual meetings and additional programming. Have a good idea for a social or educational get together? Send it on! Email addresses for all officers are listed below.

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honsowia@cooley.edu

Past-President: June VanWingen,
june.vanwingen@usdoj.gov

Vice-President: Clare Membiela,
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Member at Large: Elise Keller,
Elise_Keller@ca6.uscourts.gov

Member at Large: Helen Levenson,
levensoh@cooley.edu



MichALL Executive Board (2008)



*Front Row (left to right): Aletha Honsowitz, President; Helen Levenson, Member at Large; June VanWingen, Past-President
 Back Row (left to right): Clare Membiela, Vice President/President Elect; Elise Keller, Member at Large;
 Ann Cottongim Hudson, Treasurer; and Janet Hedin, Secretary*

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