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Pledge of Allegiance: Part II

by The Hon. Burton C. Conner

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.



This month we celebrate one of my favorite holidays: The Fourth of July. One of my fond memories is experiencing Fourth of July celebrations with my children at Williamsburg many years ago.

The Pledge of Allegiance means different things to people. You know from my previous article that I believe the Pledge is one of our best and strongest affirmations of a system that strives to achieve Justice For All. But the Pledge to our Flag encompasses more. Our Flag symbolizes the conglomerate of all the principles of our uniquely American Republic. Reciting the Pledge honors those principles and announces our commitment to them.

The original version of the Pledge was written to commemorate the 400th anniversary of Columbus discovering America. Most attribute the original version as being written in August 1892 by Francis Bellamy, a socialist minister. Some historians believe it was first written by James Upham. As a socialist, Bellamy hoped what he penned as "The Pledge to the Flag" would be used by citizens in any country. In its original form it read:

*I pledge allegiance to my Flag,
and to the Republic for which it
stands: one Nation, indivisible, With
Liberty and Justice for all.*

It was first published anonymously for Columbus Day, on September 8, 1892, in the Boston magazine *The Youth's Companion*. Both Bellamy and Upham worked for the magazine. Bellamy was the chairman of a committee of state superintendents of education in the National Education Association. After its first publication, a campaign was launched to distribute the Pledge to schools in pamphlet form as public schools around the country were preparing to celebrate the 400th anniversary of Columbus Day.

"Our Flag symbolizes the conglomerate of all the principles of our uniquely American Republic. Reciting the Pledge honors those principles and announces our commitment to them."

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On Behalf of the Publisher



By James T. Walker, President,
Friends of the Rupert J. Smith Law Library

"I know no safe depository of the ultimate powers of society, but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is, not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power." -- Thomas Jefferson, Sept. 28, 1820 (to Wm. C. Jarvis)

Most know well the story of Albert Einstein, the brilliant German theoretical physicist. Einstein's theories of general and special relativity underpin all of modern physics. He came to the United States and stayed on after Hitler came to power. He persuaded Franklin Roosevelt to begin work on the atom bomb and thus directly influenced the successful outcome of WWII. When he died in 1955, at the age of 76, Einstein was a household name.

Contrast this with the career of Alan Turing. Turing was also a brilliant scientist, as well as mathematician and cryptanalyst. His work in WWII was key to allied success in cracking German codes. He shaped the early emergence of information technology and developed concepts for algorithms and computation leading to the first modern computer. Today Alan Turing is viewed as the father of computer science and artificial intelligence. But in 1952, Turing was convicted of homosexuality. Given a choice between imprisonment and chemical castration, he chose castration. Two years later, he dipped an apple in cyanide and ate it. Alan Turing was 42 years old when he died. He paid a terrible price for being different.

"Public law libraries are the conduit that protect our way of life, by providing universal access to legal knowledge."

It is perhaps the proudest ideal of American jurisprudence that all are equal in the eyes of the law, the Einsteins and the Turings, regardless of station, of gender, of race, creed, or, yes, of number. Unpopular minorities, too, are given the full measure of its protection, as Justice Murphy once declared: "The law knows no finer hour than when it cuts through formal concepts and transitory emotions to protect unpopular citizens against discrimination and persecution."

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On Behalf of the Publisher

Individuals may remain secure in their differences without fearing persecution by a majoritarian demand for conformity, though they may be cantankerous, eccentric, free spirits of the most colorful sort. Stacie Charter, popular web authority, put it this way: "There comes a time when you have to stand up and shout: This is me damn it! I look the way I look, think the way I think, feel the way I feel, love the way I love! I am a whole complex package. Take me... or leave me. Accept me – or walk away. Do not try to make me feel like less of a person, just because I don't fit your idea of who I should be and don't try to change me to fit your mold. If I need to change, I alone will make that decision."

But the ideals of the law find meaningful expression only when all are equally aware of the law, not barred from knowledge of it by artificial barriers of cost, complexity, arcane jargon, the law treated like a treasure box with the lid shut and sealed, its contents hidden from sight. Ease of access is essential. All must be permitted, encouraged, to acquire awareness of their rights and remedies, for knowledge and freedom are intertwined. One cannot exist without the other. Thomas Jefferson knew this well. He said, "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day. ...I believe it (human condition) susceptible of much improvement, and most of all, in matters of government and religion; and that the diffusion of knowledge among the people is to be the instrument by which it is effected."

Public law libraries are the conduit that protect our way of life, by providing universal access to legal knowledge. Any person may push open the door to find there whatever information is needed. A trained librarian steers the neophyte to easily understood "self-help" manuals, to encyclopedias which organize the law and put it into context, to standard legal forms in common usage, to statutory annotations which match up the statutes to cases and other research reference, to computers accessing almost limitless databases. No other medium like this exists for the diffusion of legal knowledge. Law libraries: guarantors of American freedom. Thank you for your support.

James T. Walker, President of the Friends of the Rupert J. Smith Law Library

Patriotic Music Trivia No. 1

This song was composed by Philip Phile in 1789 for George Washington's first inauguration. It is now used as the entrance march of the Vice-President. See page 21 for answers.

The Statute of the Artificers

By Robert Brammer



In the run up to November's elections, we will undoubtedly hear the same economic arguments that we are accustomed to from both sides. The Republicans will claim the Democrats threaten the operation of the free market by redistributing wealth, creating disincentives for job creation that will weaken the economy. The Democrats will respond that the Republican economic plans threaten the existence of the middle class, exacerbate economic inequality, and turn a deaf ear to the needs of the less fortunate. Regardless of who wins, legal history suggests it could be a lot worse. In our time of economic upheaval and uncertainty, we could have candidates who advocate for an economy frozen by legislation. It seems bizarre, but this is exactly what happened in 16th Century Britain.

In 1563, economic upheaval was the order of the day, and Parliament struggled to contain it. The central government in London sought to maintain an agricultural labor force and limit social and geographic mobility. The steep decline of feudalism had displaced many from the manor, leading to the creation of a new, landless class of squatters. This situation caused no small amount of tension among the ruling class, and Parliament feared civil unrest due to the decline of the old economic order with no suitable replacement. This was the impetus for the Statute of the Artificers.

"The statute had the practical effect of freezing contractual relationships, outlawing vagrancy, and barring social mobility."

To respond to the situation, Parliament looked backward to 1349. After the Black Death had created a scarce supply of labor, the Ordinance and Statute of Laborers were enacted to suppress wages. But the new Statute did more than just fix wages for certain workers. The Statute consisted of several oppressive mandates. Maximum wages were set by town officials, a trade could not be taken up without serving a seven year term of apprenticeship, minimum terms of employment were fixed for particular occupations, and, unless a master could prove cause with the help of two witnesses, a quarter's notice was required for the dismissal of a servant. For the laborer, it would do no good to leave the employ of a cruel master with no other suitable employment, because the statute punished vagrancy by jail and whipping. The statute had the practical effect of freezing contractual relationships, outlawing vagrancy, and barring social mobility. The statute also had a long lifespan, with the apprenticeship provisions enduring all the way up until 1813.

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Pledge of Allegiance: Part II *continued from page 2*

Bellamy wanted the anniversary celebration to center around a flag-raising ceremony and a salute. As originally designed by Bellamy, the flag ceremony began with students facing the flag with hands down by their side. At a signal from the principal, the students would give a military salute and then recite the Pledge. At the words, “to my Flag,” the students would gracefully extend the right arm, palm upward, toward the flag and remain in that posture until the end of the Pledge; whereupon all hands immediately drop to the side. Thus began the tradition of reciting the Pledge in public schools. Shortly thereafter, the initial salute was changed from a military salute to the right hand over the heart, but the extended arm after “to my Flag” remained.

Although The Pledge to the Flag became a popular daily routine in America's public schools, it gained little attention elsewhere for almost 25 years. Then, on Flag Day, June 14, 1923, the Pledge received major attention at the first National Flag Conference in Washington, D.C. At the Conference, it was decided the words “my Flag” would be changed to “the flag of the United States.” At the National Flag Conference the following year, the words “of America” were added.

Because the extended arm salute resembled the Nazi salute, during World War II the hand over the heart for the entire Pledge became the protocol. The Pledge was not officially recognized by Congress until June 22, 1942, when it was formally included in the U.S. Flag Code. In 1945, Congress adopted the official name as “The Pledge of Allegiance.” On Flag Day 1954, Congress passed a law at the urging of President Eisenhower which added the words “under God” after “one nation.” The Flag Code now specifies that any future changes to the Pledge has to be with the consent of the President.

The Flag Code also states, “When not in uniform men should remove any non-religious headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.”

In doing research for this article, I stumbled upon a remarkable fact of legal history: in a mere three-year period, the Supreme Court flip-flopped on whether schools can require students to recite the Pledge. Reading the two opinions not only reveals a fascinating snapshot of a struggle over patriotic expression as America approached and became embroiled in World War II, it also reaffirms my belief that the Pledge is an affirmation of our belief in the Rule of Law (which in turn, allows us to strive for Justice For All). In the end, it was our uniquely American Bill of Rights embedded in our Constitution that prevailed.

In its 1940 *Minersville School District v. Gobitis* decision, 310 U.S. 586 (1940), authored by Justice Frankfurter, the Court held that public school boards can compel students to recite the Pledge as a condition for school attendance. Lillian and William Gobitis were Jehovah Witnesses. They were expelled from school because they refused, for religious reasons, to recite the Pledge as required by the Minersville School District. When their parents obtained an injunction against enforcing the school board policy, the school district appealed to the Supreme Court.

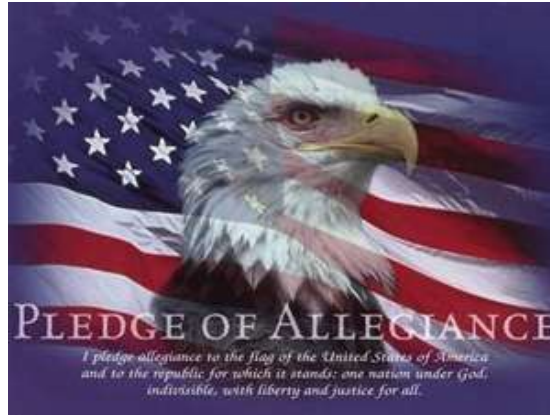
Perhaps sensing the extent to which Americans would be tested by World War II, even before the attack on Pearl Harbor, Justice Frankfurter wrote,

We are dealing with an interest inferior to none in the hierarchy of legal values. National unity is the basis of national security. . . The mere possession of religious convictions which contradict the relevant concerns of a political society does not relieve the citizen from the discharge of political responsibilities.

Id. at 594-595. Justice Frankfurter reasoned that religious freedom and the freedom of speech cannot exist if government, through its legislative bodies, is unable inculcate children with a sense of national unity, despite their religious beliefs.

In response to *Gobitis*, the West Virginia legislature passed a law that not only required the recitation of the Pledge in public schools, but also private and parochial schools. A group of Jehovah Witnesses sought an injunction because there were no schools in the state they could attend without violating their religious beliefs. The injunction was granted and another appeal made its way to the Supreme Court.

Three years after *Gobitis*, the Court reversed itself in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943). That decision was authored by Justice Jackson. Justice Jackson observed that in *Gobitis*, the Court improperly conducted its constitutional analysis by *assuming* that the legislative branch of government has the power to compel recitation of the Pledge as a condition for school attendance, and focusing on the issue of whether religious freedom allows one to disobey the law. Justice Jackson posited that the proper inquiry should *begin* with the question whether the legislative branch has the power to compel a statement of allegiance. There are two quotes from the opinion that resound loudly in my mind:



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Pledge of Allegiance: Part II

Probably no deeper division of our people could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in embracing. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to the fast failing efforts of our present totalitarian enemies. Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard.

If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

Id. at 641-642. Applying the First Amendment and the Fourteenth Amendment, the Court struck down the West Virginia statute. As Justice Jackson correctly understood, you can't believe in America if you can't accept the right to dissent.

I continue to marvel how thirty-one words so beautifully capture the spirit of America. It truly gives me goose bumps to hear a room full of people say the Pledge. My voice quivers a little. I frequently fight tears welling up...tears of pride and tears of thanks for the men and women who have died, suffered injury, or sacrificed being with family and friends to protect what the Pledge and our Flag stand for.

Editor's Note: The Honorable Burton C. Conner is the head of the Board of Trustees of the Rupert J. Smith Law Library of St. Lucie County. He was a circuit court judge in the Nineteenth Judicial Circuit for fourteen years. He was appointed to the District Court of Appeals, 4th District in 2011. We thank him for his regular contributions.



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The Statute of the Artificers

So, as you take in the campaign rhetoric over the proper direction of our economy, take a moment and be thankful that regardless of who prevails in November, none of us will be whipped all the way back to our home parish for daring to change occupations.

Robert Brammer is a member of the Florida Bar and is currently employed as a reference librarian at the Stetson University College of Law. He earned his J.D. from Wayne State, his M.L.S. from Florida State, and his B.A. from the University of Kentucky.



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Deferred Action for DREAMers

By Liza R. Galindo



Finally! Although the DREAM act has not yet passed through Congress, as of June 15, 2012, DREAMers have a glimpse of hope thanks to Secretary of Homeland Security Janet Napolitano's announcement of deferred action process for young students who are low deportation priorities. Effective immediately, students who demonstrate that they meet the specified criteria will be eligible to receive deferred action for a period of two years, subject to renewal, and will be eligible to apply for work authorization.

According to Secretary Napolitano's announcement, on a case-by-case basis those who can establish through verifiable documentation the following will be eligible for deferred action:

- 1.) Came to the United States under the age of sixteen;
- 2.) Have continuously resided in the United States for at least five years preceding June 15, 2012 and were present in the United States on June 15, 2012;
- 3.) Are currently in school, have graduated from high school, have obtained a general education development (GED) certificate;
- 4.) Have not been convicted of a felony offense, a significant misdemeanor offense, multiple misdemeanor offenses, or otherwise pose a threat to national security or public safety;
- 5.) Were less than 31 years of age on June 15, 2012 and are at least 15 years old at time of filing before United States Citizenship and Immigration Services (USCIS).

U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP) and U.S. Citizenship and Immigration Services (USCIS) are specifically instructed through Secretary Napolitano's memorandum titled, "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children," on how to handle cases in which the individuals they encounter meet the above set criteria for the exercise of prosecutorial discretion.

In particular, ICE and CBP under this memorandum are instructed to immediately exercise discretion and prevent low priority individuals from being placed into removal proceedings or from being physically removed from the United States. As a result of this, CBP announced in the June 18, 2012 Stakeholder Conference Call that it is adopting a policy of detain and release. Any individuals encountered by CBP who are not lawful permanent residents or citizens of the United States will be detained and upon completion of a background check to make sure they are not criminals and are eligible for prosecutorial discretion, they will be released if they are found to be eligible with instructions on how to proceed with USCIS once a filing process has been established.

For those individuals currently in removal proceedings are who have recently been issued a notice to appear in immigration court, they can expect to hear within 60 days of June 15, 2012 the procedure to follow in making sure ICE is aware that their case qualifies for prosecutorial discretion. Individuals who think they qualify for this relief and are in immigration court proceedings should consult with an immigration attorney to make sure they are eligible and understand how to proceed.

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Patriotic Music Trivia No. 2

This song's lyrics come from the poem, "Defence of Fort McHenry" and were written by a 35 year old amateur poet and lawyer. The music comes from "The Anacreontic Song," a men's social club in London.
See pg. 21 for answers

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Deferred Action for DREAMers

Lastly, for those individuals who already have a final order of removal and who are not in immigration court proceedings, they can submit their deferred action requests with USCIS, who will also within 60 days of June 15, 2012 announce its filing procedure. **NO APPLICATIONS SHOULD BE SUBMITTED AT THIS TIME.** Until an announcement is issued about the filing process, individuals who feel they qualify should consult with an attorney and make sure they are indeed eligible and should begin preparing the verifiable documentation that is required to establish that they meet all of the requirements.

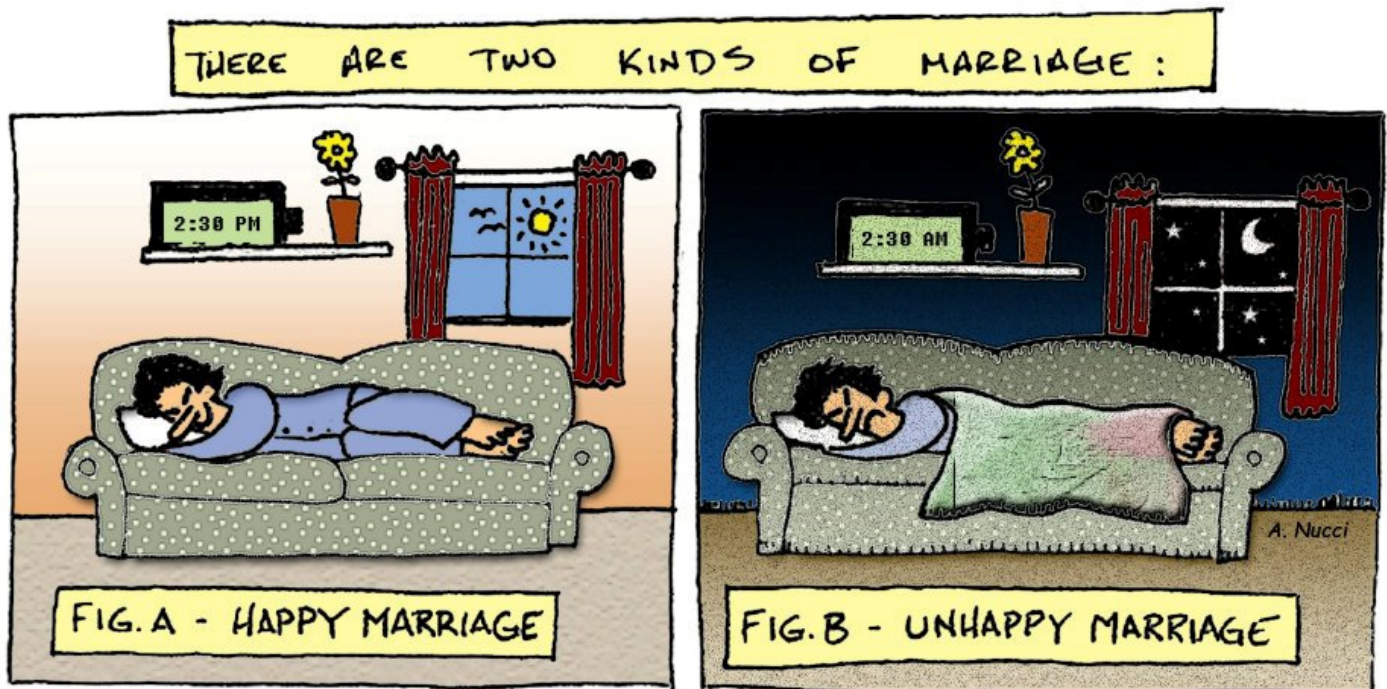
To dissuade the possibility of the use of fraud to obtain this benefit, in the June 18, 2012 Stakeholder Conference Call both ICE and USCIS directors have made it clear that fraud will not be tolerated and that the agencies will take action to prosecute those who are discovered committing fraud.

If you think you might be eligible for this relief and have a criminal record, consult with a competent immigration attorney before submitting anything to immigration. If your deferred action request is denied, there is no right to appeal. It is important to take the time and properly submit a complete request to boost your possibilities of approval. Deferred action is only granted to those who individually qualify; a sibling, parent or other relative cannot receive any derivative benefit.

It is likewise important to know that this use of prosecutorial discretion confers no substantive right, immigration status, or pathway to becoming a United States citizen. It is only the Congress, acting through its legislative authority that can confer these rights. That is why it is still important to put pressure on our representatives to push for the DREAM Act.

Individuals seeking more information should visit USCIS's website (at www.uscis.gov), ICE's website (at www.ice.gov), or DHS's website (at www.dhs.gov). Individuals can also call USCIS' hotline at 1-800-375-5283 or ICE's hotline at 1-888-351-4024 during business hours with questions or to request more information on the forthcoming process.

Liza R. Galindo, P.A. is a private immigration attorney with an office in Miami Springs, Florida located just behind the Miami International Airport. She has been practicing immigration law for over 6 years and is a member of the American Immigration Lawyers Association (AILA). For a consultation regarding your eligibility for this or any other possible immigration benefit, please call 305-888-STAY(7829) to schedule an appointment for a consultation with attorney Liza R. Galindo, Esq. Consultations in Spanish are available. www.lizagalindo.com



Does Paper REALLY Burn at 451 Degrees? Bradbury, Bigots, and Book-Banning



"What traitors books can be! You think they're backing you up, and they turn on you. Others can use them, too, and there you are, lost in the middle of the moor, in a great welter of nouns and verbs and adjectives." Ray Bradbury, Fahrenheit 451

The time-honored practice of book burning, for the uninitiated, has a fancy name: “biblioclasm” or “libricide.” Recorded cases extend back to the 3rd century BC in China's Qui Dynasty; in AD 357, the bishop of Alexandria, Egypt demanded destruction of “all unacceptable writings”; the Inquisition's excesses are well-known, as are Soviet and Nazi purges of any materials deemed to be anti-regime “propaganda.”

Bradbury published Fahrenheit 451 in 1953, a mere 60 years ago. It is, in a way, a conceptual companion piece to George Orwell's 1949

Ray Bradbury, the celebrated futurist whose work is a mix of joyful whimsy and piercing satire, died on Tuesday, June 5, 2012, at the age of 91. This was a great loss not only to literature, but to philosophy, and to civil libertarians of all stripes.

Bradbury, while reputedly hopeful and upbeat in a general sense, didn't always like what he saw -- or anticipated. While famous for overt science fiction, including Stranger in a Strange Land, Bradbury laid bare an ominous trajectory of American oppression and censorship in his most famous novel, Fahrenheit 451, a cautionary tale of a bleak near future where the government cynically uses the fire department to burn books to hold its citizenry in ignorance, and therefore in abject obedience.

For the scientifically minded, Bradbury's title refers to the supposed auto-ignition point of paper, though recent experiments indicate that the true flash point is about 30 degrees higher, even taking into account the fact that different kinds of paper have different ignition rates, and that it is easier to burn a single page than an entire book.

Annihilation through fire has a long and illustrious history, and it is not restricted to ideas. According to the Norse medieval Ynglinga saga, which dates from about 1225, no less than the god Odin “established by law that all dead men should be burned, and their belongings laid with them upon the pile, and the ashes be cast into the sea or buried in the Earth. Thus, said he, every one will come to Valhalla with the riches he had with him upon the pile....”



Nineteen Eight-Four, where a euphemistically-called “memory hole” was used to burn any written text inconvenient to the regime, and where “the total destruction of all books published before 1960” was mentioned in passing. The irony is intended: it would have erased the works of Orwell (and Bradbury) from our current collective consciousness.

Those who are tempted to dismiss Fahrenheit 451 and Nineteen Eighty Four as paranoid have learned nothing from either history or current events. Censorship has long been with us, but the danger to free expression continues unabated. In an ironic move no doubt lost on its source, on the very same day that Bradbury died, the Vatican's “Congregation for the Doctrine of the Faith” (a slightly less ominous-sounding, but fully functioning modern incarnation

of the Inquisition) issued a “mandate” that condemned publication of a 2006 book by a certain Sister Margaret A. Farley, entitled Just Love: A Framework for Christian Sexual Ethics.

It may seem that six years is a long time to consider whether a subversive book should be banned, though this is no doubt a mere blip on the screen for those who are certain of eternity. In any event, Sister Farley is hardly a rank pornographer: she is a Professor Emerita at Yale University's School of Divinity. What risk did her work pose to social order? Just Love, according to its Vatican censors, “contains erroneous propositions, the dissemination of which risks grave harm to the faithful.”

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Bradbury, Bigots, and Book-Banning

“Erroneous propositions” must, one might argue, remain “erroneous” whenever challenged, but the Vatican’s judgment is subject to reasonable skepticism. By way of example, on June 22, 1633, the Church convicted Galileo of the heresy of opining that the Earth revolved around the Sun, not vice versa. At the time, this heliocentric version of astronomy required no less than the death penalty. It was not until 1993 -- 359 years later -- that the Church concluded (following a 13 year official investigation by the “Pontifical Academy of Sciences”) that it had “erred” with Galileo’s condemnation. Under this current schedule, Sister Farley can expect an official pardon about 2371.

It is not fair to single out the Catholics for censorship of ideas, however; all types of religious fundamentalists are heavily involved in dictating what others can read.

Examples are not lacking, though the multi-volume sensation Harry Potter series poses a particularly stark, if humorous, example. A June 2007 web posting entitled “12 Reasons Harry Potter Should be Banned” appeared on www.landoverbaptist.net. Proffered reason number one was: “God shows us that witchcraft, sorcery, spells, divination and magic are evil.”

This line of attack is representative and fundamentalist parents have, often successfully, led drives to eliminate from schools the stark dangers posed by Mr.

Potter, Hermione, Ron, and their friends. Sadly, such efforts are not restricted to the United States; in 2000, St. Mary’s Island Church of England also banned Harry Potter, following the same reasoning as the “landoverbaptist” web site: that “wizards, devils and demons exist and are very real, powerful and dangerous, and God’s people are told to have nothing to do with them.”

Harry Potter does not stand alone as an elementary school pariah. Heather Has Two Mommies, written in 1989, caused a firestorm merely by suggesting that a non-traditional two-parent household might be acceptable, and the book was described in a Yahoo news blog as a “banned book legend.” In April of this year, 2012, the (South Carolina) Annville-Cleona School Board voted *unanimously* (8-0) to ban a book entitled The Dirty Cowboy, based on complaints from one set of parents. What was the problem? Nudity in the storyline.

But, before one jumps to the conclusion that “of course nudity is not suitable for children,” context should be considered: the plot involves a cowboy (presumably, with heterosexual parents, unlike Heather) who goes to the river for his yearly bath, and emerges so clean that his own dog does not recognize him. This is hardly shocking; is our puritan legacy really so strong that children cannot hear stories about bathing, without reducing them to subversive dangers?

It is fair to distinguish private, kooky book-banning efforts from a civil government’s attempt to censor information and control its citizens through ignorance. While the former is misguided and short-sighted, the latter is cynical and dictatorial. To use just the letters A and B of the alphabet, Alice’s Adventures in Wonderland has been at various times banned in China; All Quiet on the Western Front in Germany; Animal Farm (another Orwell classic) by all the Allies during World War II; Black Beauty in South Africa; and Brave New World in Ireland.



Ray Bradbury in 1979

Americans should not feel smug or superior. Using just the letter C, the Customs Department seized Voltaire’s 1759 Candide in 1930 as “obscene.” In addition to Harry Potter and The Dirty Cowboy, Joseph Heller’s Catch 22 was banned in an Ohio town in 1976; in Dallas in 1974; and in a town in Washington in 1979.

Have we evolved? Not really. One need merely consider the widely-publicized speech of then-candidate Rick Santorum earlier this year; he mocked: “President Obama once said he wants

everybody to go to college. What a snob.”

As Mr. Santorum suggests, it is true that notions can lead to ideas, ideas lead to thinking, and thinking can lead to challenge, which is something that those who wish to tell us how to think are sure not to like. Again, in the words of Mr. Bradbury’s Fahrenheit 451:

If you don’t want a man unhappy politically, don’t give him two sides to a question to worry him; give him one. Better yet, give him none.

Perhaps Mr. Santorum simply does not wish us to be politically unhappy. But the antidote to unpopular speech is more speech, not less. For this reason, the “I believe in free speech, but...” crowd should carefully consider the result when others are allowed to decide for us what speech is allowed, or not.

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Bradbury, Bigots, and Book-Banning

Every year, in a move that would make Mr. Bradbury proud, the American Library Association and others sponsors a “Banned Books Week” to raise awareness about the dangers of censorship. This year, the week falls between September 30 and October 6. Read a book for Ray.

Jonathan Coleman believes in both unfettered free speech and equal rights for all Americans.

CRYPTOQUOTE

**“Z FBSXZXV BN AUP Z FCMCXV SCP UAK
UJ PRK AKWKNNBPBKN UJ FBJK. -
RKAXV HZXD SKKWRKX”**

For the impatient, e-mail your answer to nora@rjlawlibrary.org for confirmation.
For the patient, the decoded quote will appear in the September/October issue.

Patriotic Music Trivia No. 3

Considered propaganda, Woody Guthrie wrote a series of twenty-six songs popularizing New Deal hydroelectric dams in the Pacific Northwest. These songs were commissioned by the federal government the following year after he finished his 174th column for the “Daily Worker” entitled “Woody Sez.” Three of these songs were recorded many times by other folk singers, most notably Pete Seeger. Can you name one of them? Triple points if you know more than one. See pg. 21 for answers.

LAST ISSUE'S CRYPTOQUOTE

**"OLULUXLO NSVNGT CANC NSS YQ IT...
NOL MLTDLZMLM QOYU EUUEBONZCT NZM
OLJYSICEYZETCT."
- QONZKSEZ M. OYYTLJLSC**

**"Remember always that all of us...are
descended from immigrants and revolutionists."
- Franklin D. Roosevelt**



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"The First Thing That We Do, Let's Kill All The Lawyers"



By Ashley Walker

A Shakesperian Reading of the Law

Literature has frequently been described as a mirror for the human experience. So too has the law. Both reflect life in a way that can either cloud or illuminate our understanding of the eternal questions that shape how we see our world. Few authors have understood the role of literature as has William Shakespeare, perhaps the most famous author in Western history. He has been celebrated by historians, authors, and cultural critics from Samuel Johnson to Voltaire, and today, he is often termed the greatest poet of the English language. Shakespeare was well-known as an actor and playwright in his own time, but his reputation did not reach the heights it now enjoys until the 18th century. As the eighteenth century poet and critic Alexander Pope wrote, "every single character in Shakespeare is as much an Individual as those in Life itself," and it is from this that his work gains its power.

Shakespeare's plays and poems "supply ample evidence that their author...had a very extensive and accurate knowledge of law." Greenwood also quotes John Campbell, 1st Baron Campbell, an influential British Liberal politician and lawyer who served as Lord Chancellor of Ireland before becoming Lord Chief Justice of England and Wales in 1850. In 1859, Campbell used his literary and legal training to write a treatise entitled *Shakespeare's Legal Acquirements Considered*. In it, he wrote that Shakespeare's knowledge was extraordinary. He was "amazed" by the number of legalisms used, "not only by their number, but by the accuracy and propriety with which they are uniformly introduced." He felt that most authors were "constantly making mistakes as to the law of marriage, of wills, and of inheritance," but "to Shakespeare's law, lavishly as he propounds it, there can neither be demurrer nor bill of exceptions, nor writ of error." Greenwood later commented upon Campbell's text and wrote that only lawyers could truly appreciate Shakespeare's breadth of skill and training, for "only lawyers know how impossible it is for those who have not served an apprenticeship to the law to avoid displaying their ignorance if they venture to employ legal terms."

Shakespeare recognized the law as a subject uniquely suited to artistic inspiration and expression, and for this reason, he used justice as a theme in several of his major works.

Life is messy, complex, and fragile, and the same may be said of the people who fill Shakespeare's pages, from the lovelorn school-aged Romeo to brooding, melancholy Hamlet and plotting, villainous Iago. Justice is, likewise, a complex and fragile animal. Shakespeare recognized the law as a subject uniquely suited to artistic inspiration and expression, and for this reason, he used justice as a theme in several of his major works. The central female character of *The Merchant of Venice* acts as a lawyer to persecute the play's villain, legalisms abound in *Hamlet* and *Othello*, and perhaps most alarmingly for those who work in the law, Dick the Butcher cries, "The first thing we do, let's kill all the lawyers" in *Henry VI, Part 2*. However, Shakespeare's knowledge of legal matters and his considerable respect for truth and justice may be observed throughout his plays.

Scholars and legal experts have recognized Shakespeare's contributions to the field of jurisprudence before. In 1908, Sir George Greenwood published a book entitled *The Shakespeare Problem Restated*, which contains a chapter on "Shakespeare as a Lawyer." Greenwood writes that

This is not to say that Shakespeare was always perfectly accurate in terms of his reading of the law. Scholars have squabbled for generations over his usage of terms like "entail" in *Henry VI, Part III*. Nor did he believe that legal problems were as significant or as universal as some of the more intrinsic aspects of our mortality. Towards the end of *Hamlet*, the titular character jests sardonically with two clowns in a graveyard before he begins speaking to a skull he calls Yorick. He wonders whether another skull is the "skull of a lawyer," and asks, "where be his quiddities" (or arguments), now, "his cases, his tenures, and his tricks?" The lawyer, Hamlet jokes, may have been a "great buyer of land, with his statutes, his recognizances, his fines, his double vouchers, his recoveries," but at this point, he is only a skull allowing a knave to throw him around in a graveyard. To Hamlet's way of thinking, the law was powerful but not immortal. Death was the final, most immutable judge, and even a skilled attorney could not hope to escape its grasp.

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A Shakespearian Reading of the Law

“Though Othello was easily manipulated by Iago, he is generally read as a tragic figure as opposed to the play's villain. In contrast, Iago is the depraved, evil manipulator who truly sets the stage for Desdemona's murder. However, would Iago's offenses have resulted in a conviction in a court of law?”

Shakespeare's other famous tragedy, *Othello*, provides a stark example of the damage that can be done when hearsay and circumstantial evidence are taken as fact. The play opens with Othello, a black general in the Venetian army, happily married to Desdemona, the daughter of the Venetian senator Brabantio. The play's villain, Iago, is a junior commissioned officer who begins to conspire against Othello because he believes that Othello has passed him over for a promotion. The promotion has instead gone to Michael Cassio, a lieutenant. Iago also hints that Othello has slept with his wife, Emilia, although there is little evidence to support this in the play. One thing is sure: Iago hates Othello and he is determined to destroy him.



As Shakespearean critic A.C. Bradley once wrote, “evil has nowhere else been portrayed with such mastery as in the evil character of Iago.” Iago is a complex and sinister antagonist, and he gains his strength because Othello trusts him very deeply. Other characters see Iago as a truthful, honest, and good human being; his brand of treacherousness comes in the form of Machiavellian scheming and manipulation. Throughout the course of the play, Iago successfully convinces Othello that Othello's wife, Desdemona, is having an affair with Michael Cassio, the lieutenant promoted at Iago's expense. The pivotal moment in the execution of this plot comes when Iago conspires to steal one of Desdemona's handkerchiefs. This particular handkerchief was Othello's first gift to Desdemona, and Iago knows that it holds a great deal of sentimental value in Othello's eyes. He plants the handkerchief in Cassio's quarters, then arranges for Othello to discover it, all the while telling him that Cassio received it as a lover's gift from Desdemona.

Othello accepts the handkerchief as proof of Desdemona's infidelity and then appoints himself as judge and executioner in her case. He begins to beat her in front of her own family members, and in the play's final, horrific act, he smothers her to death while she lays in bed. Iago's wife, Emilia, discovers them and is understandably distraught. Othello attempts to justify his actions by explaining that he had found the handkerchief in Cassio's quarters, proving that she was an adulteress, but Emilia knows of Iago's plot against Othello and reveals the truth. Othello then realizes what he has done and commits suicide before he can be taken into custody. Iago is apprehended and taken away to be tortured, though he refuses to explain his motives and takes a vow of silence.

The play's central question then becomes one of culpability. Though Othello was easily manipulated by Iago, he is generally read as a tragic figure as opposed to the play's villain. In contrast, Iago is the depraved, evil manipulator who truly sets the stage for Desdemona's murder. However, would Iago's offenses have resulted in a conviction in a court of law? As Professor Richard McAdams of the University of Chicago Law School points out, conspiracy liability did not exist in 1600s England as it does today. A hypothetical prosecutor attempting to convict Iago for the commission of a crime would have only been able to charge him as an accomplice before the fact. This attorney's greatest piece of evidence might come from the scene in which Othello tells Iago that he is planning to poison Desdemona, and Iago responds by saying “Do it not with poison, strangle her in her bed.” However, though his actions clearly serve to influence Othello's behavior, Iago is not present when Desdemona's murder is actually committed. Othello, on the other hand, commits a terrible crime when he allows himself to be persuaded that his loving wife has betrayed him, and a far worse one when he murders her without allowing her to defend herself or prove her innocence.

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William Shakespeare

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A Shakespearian Reading of the Law

After her death, Othello learns that Desdemona was indeed blameless, but the exculpatory witness testimony that would have saved her life comes too late. Cassio himself may have affirmed that he had never slept with Desdemona, and Iago's wife, Emilia, would have revealed Iago's conspiracy. The play's ending shows that Othello is a doomed and ruined man who has bypassed justice for the sake of bitter revenge. His heavy reliance upon the handkerchief as circumstantial evidence for Desdemona's infidelity is immoral behavior in and of itself. In fact, Professor Kenji Toshino has notably compared Othello's use of the handkerchief to the black glove in the O.J. Simpson trial, as "both forms of 'ocular proof' wrongfully overwhelmed all other evidence of guilt or innocence."



Al Pacino
as Shylock from
The Merchant of Venice

Portia's character in *The Merchant of Venice* provides another interesting, if arguably problematic, view of the role of justice in society. At the play's opening, Antonio takes out a loan from the greedy moneylender Shylock. Shylock hates Antonio, but agrees to lend him the money on the condition that if Antonio does not repay it, he may take a pound of Antonio's flesh. Antonio agrees and signs a bond, but defaults upon the loan. Shylock has Antonio brought before the court of the Duke of Venice, where he demands his pound of flesh. The Duke desires to save Antonio but cannot nullify a contract. Fortunately, a visitor steps in – Portia, the wife of Antonio's closest friend, Bassanio. Portia is disguised as a male "doctor of the law." She asks Shylock to be merciful to Antonio, telling him that mercy is "twice blest: it blesseth him that gives and him that takes." However, Shylock refuses to bend, insisting on collecting the pound of flesh that will end Antonio's life. Portia then points out that his contract only allows Shylock to remove Antonio's flesh, not his blood. If he breaks the contract by spilling a drop of Antonio's blood, Shylock will forfeit his lands and goods under Venetian law. Shylock concedes, but Portia is not finished. She then cites a law which states that because Shylock is a Jew and therefore an "alien," he has forfeit his property by attempting to take the life of a citizen. The government will receive half of his property, while Antonio will receive the other half, and Shylock's life is left at the mercy of the Duke. The Duke pardons Shylock's life and grants remission of the state's half of forfeiture, but only on the condition that Shylock converts to Christianity.

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America's First Espionage Act

By Richard Wires

Just as the September, 2001 attacks on New York and Washington led to new laws to tighten national security, so also did similar worries twice before in our history, beginning with passage of the Alien and Sedition Acts in 1798, and the bitter political controversy that then ensued. Although never ruled upon by the Supreme Court, the acts lapsing in time, American legal opinion has long believed them unconstitutional. More than a century later the Espionage Act of 1917 and an amendment frequently called the Sedition Act of 1918, created many years of debate, but few people are now familiar with the circumstances that produced America's first comprehensive law dealing with spies and other foreign agents.

"In 1919 the Supreme Court unanimously upheld the basic act in Schenck v. U.S. (249 U.S. 47) and related cases. Writing for the Court Justice Oliver Wendell Holmes set a durable test for First Amendment cases involving free speech: words that create a "clear and present danger" may not be allowed."

The acts grew out of conditions in World War I during 1914-1917 when the country was still neutral. Each side tried both to influence American views and cause trouble for opponents. As a practical matter American's neutrality was one-sided. Although armaments and other supplies could be purchased by both sides, Britain maintained a blockade on Germany, which could not pick up or transport the commodities it wanted. Meanwhile, German actions angered American opinion. Used to unrestricted submarine warfare against Allied shipping; incidents like the *Lusitania* sinking are well known. Less familiar are major acts of sabotage on American soil and the bank-rolling of anti-British groups. Berlin gambled on being able to buy time and keep Americans occupied at home while it won the conflict in Europe. Two examples of its daring, little known today, helped shatter the public's complacency.

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Patriotic Music Trivia No. 4

This song was very popular during WWI and written by George M. Cohan just after we declared war.
See pg. 21 for answers

A Shakespearian Reading of the Law

It is worth noting that both *The Merchant of Venice* and *Othello* center upon similar issues of race, religion, and ethnicity, complicating the plays' views of justice and equality. As a black African in Venice, Othello is consistently the subject of racism and intolerance. Desdemona's father openly resents that she has married a black man and Iago frequently refers to Othello with animalian slurs and insults. In fact, Iago suggests in one soliloquy that Othello's race is one reason why Iago chooses to manipulate and persecute him. In *The Merchant of Venice*, Shylock is a Jewish man who is disenfranchised as an "alien" in the Christian city of Venice. The law states that Shylock, as a Jew, has forfeited his property and his freedom because he has attempted to take the life of a true citizen of Venice. Shylock is seen as the villain of *The Merchant of Venice*, but he is also a member of a religious and ethnic minority group that is repeatedly disparaged, insulted, and even legally persecuted by its enemies and fellow Venetians. Nor are Shylock's adversaries in the right. Antonio is a vicious anti-Semite who frequently demeans Shylock, insulting him and spitting on him in the street. Moreover, Shakespeare gives Shylock one of the play's most moving and eloquent speeches, causing modern critics to read the play as a cry for greater tolerance. Shylock asks, "Hath not a Jew eyes? Hath not a Jew hands, organs, dimensions, senses, affections, passions; fed with the same food, hurt with the same weapons, subject to the same diseases, heal'd by the same means, warm'd and cool'd by the same winter and summer as a Christian is?" To his way of thinking, both Christians and Jews bleed when they are pricked, laugh when they are tickled, and if they are wronged, it is natural that they desire revenge. A sympathetic reading of Shylock's character thus complicates the role of justice throughout the play, as it suggests that Shylock was well within his rights to seek legal prosecution against Antonio. They had signed a legal bond, and by 21st century standards, it was certainly immoral for the law to strip Shylock of his property and to force him to convert to another religion.

Shakespeare's reading of the law has been chronicled over the course of many critical generations. Those of us who admire both literature and the law may appreciate the complex, delicate way in which he treats problems of justice throughout his works. He may also have laid out the best hope for those of us who endeavor to uphold legal principles throughout the course of our everyday lives. In *The Taming of the Shrew*, Tranio contends that he and his compatriots should "do as adversaries do in law, Strive mightily, but eat and drink as friends." Though Shakespeare was not himself a lawyer, he well understood the power of law and justice to bring humanity together or tear individuals apart. Othello's character demonstrates the tragedy that lack of trust and reliance upon circumstantial evidence can render, but on the whole, Shakespeare's body of work is a testament to the idea that the pursuit of justice is never a lost cause. One hopes that all of us who work in the field of law may remember and emulate his fine example.

Ashley Walker is a legal assistant with the firm Lichtman and Elliot, PC, in Washington, D.C., specializing in immigration and asylum law. She graduated from Dartmouth College in 2010 after studying English Literature and Arabic. Subsequently, she was a paralegal with Cleary Gottlieb Steen & Hamilton, LLP, working primarily on antitrust litigation and securities. She plans to pursue graduate study beginning in 2013.

Patriotic Music Trivia No. 5

Not to be outdone, this song was written by Irving Berlin in 1918 and has always been very popular, peaking in the 1990s during the Gulf War with Lee Greenwood's rendition. See pg. 21 for answers



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America's First Espionage Act

Massive explosions occurred on July 30, 1916 at a facility on New Jersey's Black Tom Island, apparently named for an early resident, destroying a complex of warehouses and docks near the Statue of Liberty in the New York harbor. As a major depot for shipping arms and munitions to the Allies it often had huge quantities of supplies waiting to be loaded. Then on hand were a reported 50 tons of explosives and some 1000 tons of ammunition in railway cars. Mysterious small fires were discovered soon after midnight and then at 2:08 a.m. came the most powerful of the explosions that destroyed the area. Pieces of debris hit the Statue of Liberty and buildings in central Jersey City; the Brooklyn Bridge shook; concussion broke windows up to 25 miles away and included some in Times Square. Remarkably only seven deaths were acknowledged, called too low by some, though hundreds of others were injured. Investigators quickly determined the cause was sabotage, most likely using pencil bombs, and various political groups came under suspicion. Evidence implicated low-level German agents, perhaps working in conjunction with Irish or Indian groups intent on winning independence, both movements that German officials supported. But clear connections were not established. Total damages estimated at \$20 million included \$100,000 needed to repair the Statue of Liberty; those figures would come to about \$425 million and \$2.25 million respectively in 2012 dollars.



German Military Attaché
Franz Von Papen
expelled by Federal authorities
in 1915 for his role in secret
intrigues.

Political plots also caused anxiety. Federal authorities had already acted against the German military attaché, Franz von Papen, expelled in December, 1915 for his role in secret intrigues. A once famous case shows the pattern. It involved Indian conspirators in California supported by German officials. Punjabi immigrants who had formed the Ghadar Party were planning a national revolt in India. Arrests in 1915 following seizure of their arms aboard the *Annie Larsen* included men from the staff of the local German consulate. What was called the Hindu-German Conspiracy Trial began in San Francisco in November, 1917 and lasted five months. Some thought it the nation's longest trial up to that time. Though convicted of violating the country's neutrality, since their crimes occurred before war was declared, the defendants received relatively light prison sentences. There was some sympathy for their cause.

German policies and intrigues finally exhausted American patience. Its unrestricted submarine attacks having resumed early in 1917 and its efforts to induce Mexico to take military action having also been discovered, incited Congress to declare war on April 6, 1917. The seriousness of so many "internal hostile activities" led to the Espionage Act being passed on June 15. As a comprehensive security measure the legislation mostly consolidated provisions from existing statutes. Consequently, it was not controversial but an amendment approved in May, 1918 dealt with different content and more troublesome issues. Many have called it the Sedition Act and treat it as a separate law. It greatly increased government authority to restrict speech and expression, whether in peace or wartime, and provided that those convicted face substantial fines and sentences. The early prosecutions involved anti-war protestors and leftist activists. In 1919 the Supreme Court unanimously upheld the basic act in *Schenck v. U.S.* (249 U.S. 47) and related cases. Writing for the Court Justice Oliver Wendell Holmes set a durable test for First Amendment cases involving free speech: words that create a "clear and present danger" may not be allowed. That view stood until 1969 when *Brandenburg v. Ohio* (395 U.S. 444) made an "imminent lawless action" a more restrictive test. While in 1919 the Sedition Act was also found constitutional in *Abrams v. U.S.* (250 U.S. 616), the decision included an important dissent, with Holmes and Justice Louis Brandeis warning against Americans curtailing speech with which they disagree.



Scene of the Black Tom Island Explosion
July 30, 1916

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Patriotic Music Trivia No. 6

This song was written by Samuel Francis Smith in 1831 and only took 30 minutes to compose. It was first performed at a July 4th celebration in Boston. See pg.21 for answers

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America's First Espionage Act

Through landfills, Black Tom Island became part of the mainland and Liberty State Park. A memorial tablet within a circle of American flags marks the site of the explosion. The Lehigh Valley Railroad as owner of the shipping depot sought compensation through the German-American Mixed Claims Commission and in 1939 finally got the decisions placing blame on the former German Empire. World War II halted the process and the \$50 million settlement was not arranged until 1953 and the last payment was not made until 1979. A permanent change also occurred at the Statue of Liberty due to damage caused by the explosion. The original observation platform in the uplifted torch which was closed in 1916 for safety and needed repairs, and has continued to be inaccessible to visitors ever since.



A poster of the era protesting the Espionage Act



Richard Wires holds a doctorate in European History and a law degree. He served in the Counter Intelligence Corps in Germany and is Professor Emeritus of History at Ball State University, where he chaired the department and later became Executive Director of the University's London Centre. His research interests include both early spy fiction and actual intelligence operations. His books include the Cicero Spy Affair: German Access to British Secrets in World War II.



WORD SEARCH

BLUE
CONGRESS
ENGLAND
FIREWORKS
FLAG
FREEDOM
JULY
KING
LIBERTY
PARADE
RED
STATES
TAXES
UNITED
WAR
WHITE

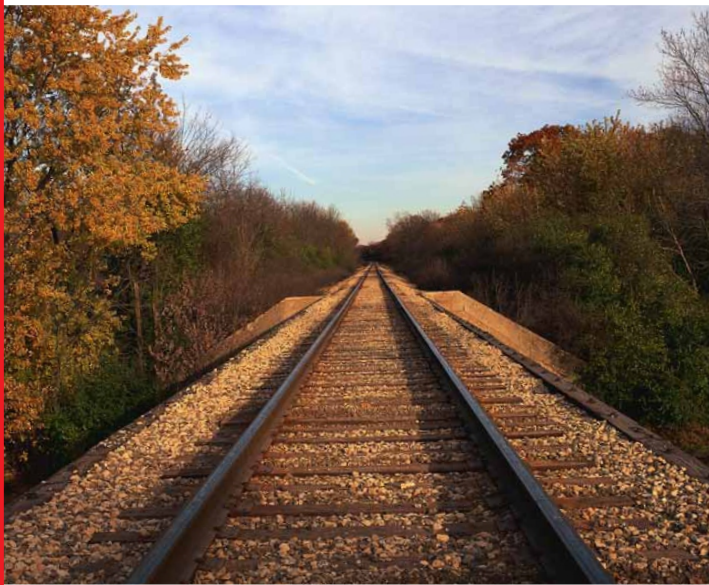
U R L W Z T O G B T
N G U A K I N G S P
I M K R S E T A T S
T A X E S W Y L U J
E M O D E E R F M B
D F Y T R E B I L L
A W E N G L A N D U
R L L Z N W H I T E
A S K R O W E R I F
P J R U C Q L N L B

Patriotic Music Trivia No. 7

Influenced by Transcendentalism, Julia Ward Howe wrote the poem after visiting a Union Army camp in 1862. They became the lyrics for what song?

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Patriotic Music Trivia No. 8

The first verse goes:

Eternal Father, Strong to save,
 Whose arm hath bound the restless wave,
 Who bid'st the mighty Ocean deep
 Its own appointed limits keep;
 O hear us when we cry to thee,
 for those in peril on the sea.
 See pg. 21 for answers

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Thursday July 12 at 5:30 p.m.
All meetings are at the
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provided. We look forward
to seeing you!

The Cost of Curtailing First Amendment Rights: Tampa, the Event Zone and the Right to Protest

By Lisa Bruno

On August 27, 2012, Republicans will meet for three days in Tampa, Florida for their presidential nomination convention, using the more than \$18 million to pay for hotel accommodations, transportation, confetti, cocktails, entertainment and more, all paid for with public funds. (Not alone, Democrats will hold their convention in Charlotte, N.C. the following week.) The money comes from checking the tiny box on your tax form to contribute \$3.00 to the Presidential Election Campaign fund. About 30 million taxpayers check this box every year. This year, however, will be the last party funded by taxpayers. On June 22, 2012 the Senate voted 95-4 on an amendment that stops political parties from using public funds to finance national conventions after December of this year, a practice that has been going on since the 1970s. The amendment did not include a provision banning corporate financing for the conventions.

Additional money includes a \$50 million fund from Congress created to reimburse Tampa for security-related expenses to keep safe the 50,000 people coming to the Tampa Bay Area. That number includes delegates (2286), alternative delegates (2125), national and international media (15,000), protestors (15,000), volunteers (7500), and other tourists. Tampa will use \$500,000 of the federal funds to pay for lightweight, khaki cotton uniforms the recruited officers will wear during the convention.

"In a statement to the Tampa city council, Mike Phenegar, Col., USA (R), President, ACLU of Florida said, "The most significant problem is that the ordinance is a bureaucratic and procedural attempt to address what will be organic events that will spontaneously evolve in ways that neither the city nor demonstrating visitors anticipate."

Tampa police chief Jane Castor sent out a formal call for assistance asking Florida law enforcement agencies for 3500 to 4000 officers to help patrol the city. The letter asks that they send officers "suited to the task by experience, temperament and disciplinary history."

Because of the anticipated crowds who will gather in and around the Tampa Bay Times Forum and Tropicana Field to support or to protest the policies the party represents, the city of Tampa created the Event Zone (name changed from the Clean Zone) Ordinance. The Event Zone Ordinance is a temporary ordinance that regulates how, where and what people and groups would be legally allowed to do, say and bring during the three-day Republican convention.

“There is a fine balance between public safety and the people's right to peaceably exercise their First Amendment rights within a said forum,” said Thom Foley, President of the Pinellas Chapter of the ACLU of Florida in a letter to the mayors of Tampa and St. Petersburg.

Starting in 2011, the Tampa and Pinellas chapters of the American Civil Liberties Union voiced their concerns to city officials to head off any misapprehensions or misunderstandings of how the ACLU of Florida views the rights of the people with regard to their peaceful expression in and around the convention areas.



The final temporary convention ordinance signed on May 17, 2012 creates a designated protest area within sight and earshot of the Tampa Bay Times Forum 24 hours a day, open to everyone with no permit required. Inside the zone, groups of fifty or more can apply for an all day permit for three parks. There is a time limit of ninety minutes for marches on the parade route. (See page 20 for a list of prohibited items and activities.) The Secret Service controls the convention site and will use metal detectors to scan every person going inside the security perimeter. Only law enforcement officers working in their official capacity will be allowed to carry guns into the perimeter including the Tampa Bay Times Forum and the Tampa Convention Center. This perimeter may be expanded to include some hotels and part of the waterfront.

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Tampa, the Event Zone and the Right to Protest

Local authorities will control outside the perimeter. Additionally 59 law enforcement agencies from Waldo, Florida to the Broward Sheriff's Office as well as the Florida Highway Patrol will provide security in the Tampa and St. Petersburg zones.

In a statement to the Tampa city council, Mike Phenegar, Col., USA (R), President, ACLU of Florida said, "The most significant problem is that the ordinance is a bureaucratic and procedural attempt to address what will be organic events that will spontaneously evolve in ways that neither the city nor demonstrating visitors anticipate." Phenegar noted "there will be ten billion media impressions of Tampa during this period. We do not wish to create the violent images that lingered for years after conventions in Boston and New York. The success of the ordinance will depend on the intelligence, flexibility and judgment of the officials that implement its provisions."

Permits for public gatherings, parades, and speakers platforms will be required. So far only two groups have applied for permits. Occupy the RNC has stated "while we respect those who feel the need to ask for a permit, we believe the very act of asking permission for rights which are ours already, undermines the power we each have as free individuals."

City parks are typically places for crowds to gather. As part of the contract with the RNC Host Committee, the City of Tampa offered fifteen downtown parks and parking lots to the RNC for its right of first refusal. The Host Committee reserved twelve including the largest, most picturesque, Curtis Hixon Park, of the fifteen locations for the entire week of the convention. The three parks rejected by the Host committee can be used by other groups for events/rallies.

Another concern to citizen rights groups are sidewalks. There is an exception to the requirement for a Public Gathering Permit for assemblies that "will take place on public sidewalks and cross walks and is not likely to interfere or obstruct the normal or usual flow of pedestrian use." This was a change based on input from the ACLU. Unfortunately, the city added language that says such a sidewalk assembly "will not interfere with the normal or usual flow of pedestrian use if: (1) participants assemble two abreast and (2) give way to others they encounter, and (3) obey all traffic and crosswalk regulations."

Protestors from Resist the RNC and the Free Speech project said demonstrators plan to protest peacefully but these ordinances put the city between protestors and the intended targets of their demonstrations.

The National Lawyers Guild (NLG) has harshly criticized the Tampa ordinance stating that it would drastically and unconstitutionally restrict protests and that it "creates arbitrary permit requirements and lays out a militaristic view of crowd control. Taken together its provisions set the stage for violent police action against peaceful protestors and bystanders. We hope that the City of Tampa will take seriously our belief that police overreaction and the curtailment of First Amendment activities are not needed to ensure the safety of event participants." Over the past decade, NLG lawsuits have successfully challenged police abuses from similar ordinances, resulting in costly litigation and multi-million dollar settlements. (Tampa will have \$10 million worth of liability insurance starting July 1.) Settlements from protest lawsuits since 1999 total nearly \$60 million.

Governor Scott is expected to sign an executive order just before the convention declaring a state of emergency. All law enforcement agencies on the ground will be authorized to make arrests. The RNC expects most officer-citizen encounters will be video recorded by citizens, journalists and city cameras posted throughout downtown.

The Republic National Convention will bring thousands of people and an economic impact of an estimated \$175 million to the Tampa Bay area. Hopefully, this benefit will not be at the expense of our first amendment rights.

Lisa Bruno lives in Jacksonville. Lisa is a freelance writer, Law Librarian and serves as a State Representative for the American Civil Liberties Union of Florida.

Patriotic Music Trivia No. 9

Probably his most popular song, it was written by Woody Guthrie because he disliked "God Bless America." In early recordings, the song included this fourth verse:

See pg. 21 for answers

*As I went walking I saw a sign there
And on the sign it said "No Trespassing."
But on the other side it didn't say nothing,
That side was made for you and me.*

Prohibited Items and Actions in Tampa's Event Zone Ordinance

The Event Zone Ordinance bans items that could be used as weapons:

- Umbrellas with metal tips (also could be used as a shield from tear gas)
- Tape
- Rope
- Chain
- Frangible items, including glass containers and light bulbs
- Gas masks or any other masks (except in the public viewing area and parade participants) that would conceal faces
- Locks including bicycle locks
- Ladders, tripods, and ice chests
- Specific guns prohibited are; air rifles, air pistols, BB and pellet guns and paintball rifle.

Behaviors specifically prohibited:

- Rappelling
 - Camping on public property
 - Blocking a sidewalk or right of way
 - Attaching yourself to a building or a pole
- There is no mention of firearms. If you have a permit to carry a concealed weapon you may travel freely throughout the zone with your weapon. The city of Tampa tried to prohibit concealed weapons, but Gov. Rick Scott refused to issue an executive order banning the weapons during the RNC. So Council members unanimously voted to ask the Department of Justice and the Secret Service to instead expand its security circle.



Did You Know?

Both the ACLU and the Lawyers Guild have Legal Observer training programs designed to help defuse confrontations between police and protestors, deter police misconduct and provide evidence for subsequent legal actions. Contact either organization's website for more information.

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Patriotic Music Trivia No. 10

This song's thirteen verse is seldom (ever?) sung:

Trump of glad jubilee!

Echo o'er land and sea freedom for all.

Let the glad tidings fly,

And every tribe reply,

"Glory to God on high," at Slavery's fall.

The more frequently verse and verses were sung by Crosby, Stills & Nash on the Tonight Show after the September 11 attack, Aretha Franklin sung it at our last Presidential inauguration and Martin Luther King recited the first verse towards the end of his "I have a Dream" speech.

See pg. 21 for answers



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Patriotic Music Trivia Answers

Some of the songs are used more than once.

No. 1: This song was composed by Philip Phile in 1789 for George Washington's first inauguration. It is now used as the entrance march of the Vice-President. **A:** **"Hail, Columbia."**

No. 2: This song's lyrics come from the poem, "Defence of Fort McHenry" and were written by a 35 year old amateur poet and lawyer. The music comes from "The Anacreontic Song," a men's social club in London. **A:** **"The Star-Spangled Banner."**

No. 3: Considered propaganda, Woody Guthrie wrote a series of twenty-six songs popularizing New Deal hydroelectric dams in the Pacific Northwest. These songs were commissioned by the federal government the following year after he finished his 174th column for the "Daily Worker" entitled "Woody Sez." Three of these songs were recorded many times by other folk singers, most notably Pete Seeger. Can you name one of them? Triple points if you know more than one. **A:** **"Roll on Columbia," "Pastures of Plenty" and "Grand Coolee Dam."**

No. 4: This song was very popular during WWI and written by George M. Cohan just after we declared war. **A:** **"Over There."**

No. 5: Not to be outdone, this song was written by Irving Berlin in 1918 and has always been very popular, peaking in the 1990s during the Gulf War with Lee Greenwood's rendition. **A:** **"God Bless America."**

No. 6: This song was written by Samuel Francis Smith in 1831 and only took 30 minutes to compose. It was first performed at a July 4th celebration in Boston. **A:** **"My Country, 'Tis of Thee."**

No. 7: Influenced by Transcendentalism, Julia Ward Howe wrote the poem after visiting a Union Army camp in 1862. They became the lyrics for what song? **A:** **"Battle Hymn of the Republic."**

No. 8: The first verse goes:
Eternal Father, Strong to save,
Whose arm hath bound the restless wave,
Who bid'st the mighty Ocean deep
Its own appointed limits keep;
O hear us when we cry to thee,
for those in peril on the sea.

A: **"The Navy Hymn."**

No. 9:
Probably his most popular song, it was written by Woody Guthrie because he disliked "God Bless America." In early recordings, the song included this fourth verse:

*As I went walking I saw a sign there
And on the sign it said "No Trespassing."
But on the other side it didn't say nothing,
That side was made for you and me.*

A: **"This Land is Your Land."**

No. 10: This song's thirteenth verse is seldom (ever?) sung:

Trump of glad jubilee!
Echo o'er land and sea freedom for all.
Let the glad tidings fly,
And every tribe reply,
"Glory to God on high," at Slavery's fall.

The more frequently verse and verses were sung by Crosby, Stills & Nash on the Tonight Show after the September 11 attack, Aretha Franklin sung it at our last Presidential inauguration and Martin Luther King Jr. recited the first verse towards the end of his "I have a Dream" speech. **A:** **"My Country, 'Tis of Thee."**

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To South Indian River Drive and turn right (south)
You'll see us on the right hand-side of the road



Books Revisited

Walden or Life in the Woods
by Henry David Thoreau

Reviewed by Paul Nucci

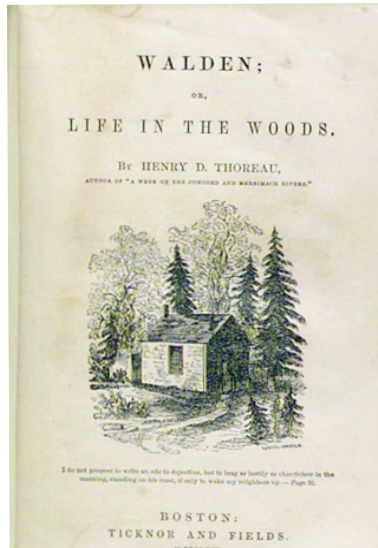
"Many a man can trace a change in his life to the reading of a single book."

Walden, by Henry David Thoreau



In H.G. Wells' *The Time Machine*, the hero leaves his present life for the future taking with him three books from his library. His friends are left to speculate as to what books he took and what books they would take. It is a great question. Over the years my list has changed but *Walden* remains one of those books.

This is my second book report on *Walden and Civil Disobedience* by Henry David Thoreau. Despite the fact that I got an "A," it should be easy to avoid plagiarizing my earlier version. After all, it was 1966: a time of hippies and anti-war demonstrations. Thoreau's warning "not to trust anyone over the age of thirty" became an anthem for young people disillusioned by their parents' generation's hypocrisy and materialism. Times certainly have changed: or have they? After 165 years *Walden or Life in the Woods* is as relevant and important as the day it was published.



The cover page of the first edition of *Walden*

Thoreau's chronicle of his famous experiment in simplified living, the issues he raised, the future he foresaw, and his elegant solution to the problem of getting a living worth having are eerily present with us today. Thoreau was born in 1817 in Concord Massachusetts. At that time, Concord was the center of American intellectual thought. Ralph Waldo Emerson, Bronson Alcott, Nathaniel Hawthorne and Margaret Fuller were just a few of the luminaries of their day that made their home in Concord. In addition, Concord boasted several utopian communities including the Baker farm.

Though not born to wealth, Thoreau was educated at Harvard college; a rare privilege even then. Upon graduation Henry taught school but quickly left that profession because he refused to administer corporeal punishment. A great deal was expected of a young man that had received a Harvard education but Henry never failed to disappoint family and friends. His aimlessness and self

directed studies seemed like a colossal waste of time to everyone except himself. He had many occupations; surveyor, pencil maker, tutor, manual laborer, and writer. He called himself "self appointed inspector of snow storms." Henry never accumulated any wealth or gained a great reputation outside of Concord during his lifetime.

Thoreau might be completely forgotten today but for two things: an experiment in living that remains one of the most influential in American history, and his arrest for refusing to pay a tax. On an errand to town, Thoreau was arrested for failing to pay six years of poll taxes. An embarrassed relative paid the tax and he was released the following day.

Seldom has a single night in jail had as much impact. Thoreau refused to pay the tax which contributed to causes (the Mexican war and slavery) he saw as unjust. His non-violent approach mentioned in *Walden* and expanded upon in his essay *On Civil Disobedience* began a movement that influenced Gandhi and Dr. Martin Luther King.

Gandhi wrote: "Thoreau was a great writer, philosopher, poet, and withal a most practical man, that is, he taught nothing he was not prepared to practice in himself. He was one of the greatest and most moral men America has produced. At the time of the abolition of slavery movement, he wrote his famous

essay "On the Duty of Civil Disobedience." He went to jail for the sake of his principles and suffering humanity. His essay has, therefore, been sanctified by suffering. Moreover, it is written for all time. Its incisive logic is unanswerable."

—*For Passive Resisters* (1907)

Dr. Martin Luther King, Jr. wrote: "During my student days I read Henry David Thoreau's essay *On Civil Disobedience* for the first time. Here, in this courageous New Englander's refusal to pay his taxes and his choice of jail rather than support a war that would spread slavery's territory into Mexico, I made my first contact with the theory of nonviolent resistance. Fascinated by the idea of refusing to cooperate with an evil system, I was so deeply moved that I reread the work several times. I became convinced that noncooperation with evil is as much a moral obligation as is cooperation with good. No other person has been more eloquent and passionate in getting this idea across than Henry David Thoreau.

Books Revisited - Walden

As a result of his writings and personal witness, we are the heirs of a legacy of creative protest. The teachings of Thoreau came alive in our civil rights movement; indeed, they are more alive than ever before. Whether expressed in a sit-in at lunch counters, a freedom ride into Mississippi, a peaceful protest in Albany, Georgia, a bus boycott in Montgomery, Alabama, these are outgrowths of Thoreau's insistence that evil must be resisted and that no moral man can patiently adjust to injustice."

— *The Autobiography of Martin Luther King, Jr.*

Thoreau's other enduring legacy came from an idea suggested by his friend Ralph Waldo Emerson. In 1845, on land Emerson owned on the shore of Walden pond, Thoreau built a cabin where he lived for just over two years. He wanted to see how little of his life he would have to trade to get the necessities of life; namely food and shelter. He was alarmed at the burden that his neighbors had to bear. The standard housing of the day had grown from the simple farms and cabins of colonial times to mansions with "all the comforts." Those comforts came at a price. Thoreau could "point to the few townspeople that owned their home or farms outright." He saw clearly that people were becoming the slaves of their housing and possessions. Thoreau's cost to construct his cabin was around \$28.00. Symbolically he moved into his cabin on the Fourth of July.

Thoreau chronicled his life in the woods in *Walden*. More than a journal of his day to day life, *Walden* is filled with scientific observations of nature that were so accurate and broad that the Smithsonian institution used them in 2006 to measure climate change.

Thoreau wrote *Walden* over several years and several revisions. It is organized to read like a journal of a single year. He notes the changing seasons and the timeless cycle of life in and around the pond.

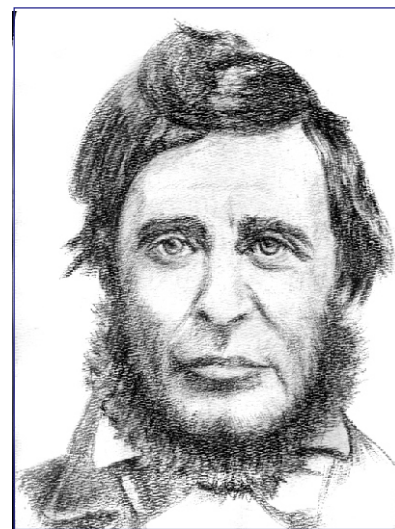
Several themes are apparent throughout *Walden*. Our relationship with time, nature, possessions, government, and our fellow creatures, all are dealt with in the first person. That person is a rugged and frugal individualist who was not willing to trade time for superfluous possessions. Thoreau wrote; "Simplify, simplify, simplify," though some wag pointed out that if he really wanted to simplify, he would have only written the word once.

Thoreau does not preach. He observes and reports what he finds. Today we would say he "walks the walk." He was suspicious of the value of new things, particularly technologies of his time.

Henry revealed his mistrust of progress when he sarcastically noted the opening of the transatlantic cable by saying, "We waited with baited breath when at last the news arrived that Princess Adelaide had the whooping cough." He decried the conditions in which the Irish railroad workers lived. He wrote that "for every rider on the railroad there are a hundred being ridden over." It isn't that Thoreau disliked change, he simply saw an over-emphasis on change in the less meaningful areas of life; namely material things.

"An early review of Walden advised readers to 'skip over the philosophy parts' in favor of the nature observations. A more recent review of Walden states that its loftiness and nobility may make it 'one of our most revered and least read books...like the Bible.'"

Walden is part journal, part nature observation and part philosophy. It was not a big seller in its day. It took six years to sell out of the initial 1854 printing of 2000 copies. It went on to become a consistent best seller and remains so today. An early review of *Walden* advised readers to "skip over the philosophy parts" in favor of the nature observations. A more recent review of *Walden* states that its loftiness and nobility may make it "one of our most revered and least read books...like the Bible." There have been many editions of *Walden*. Some are annotated which can add to one's appreciation of the many references Thoreau makes to other literary works. Most editions include the essay *On Civil Disobedience*.



Henry David Thoreau
a sketch by the author

continued from page 23

Books Revisited - Walden

Henry David Thoreau died of tuberculosis in 1862. He would be surprised to learn that his beliefs continue to inspire people all over the world. Ralph Waldo Emerson eulogized his friend. "The country knows not yet, or in the least part, how great a son it has lost. It seems an injury that he should leave in the midst of his broken task, which none else can finish, — a kind of indignity to so noble a soul, that it should depart out of Nature before yet he has been really shown to his peers for what he is. But he, at least, is content. His soul was made for the noblest society; he had a short life exhausted the capabilities of this world; wherever there is knowledge, wherever there is virtue, wherever there is beauty, he will find a home."

I have made a number of trips to Thoreau's cabin site over the years. A cairn of stones stands beside the cabin site and has for more than a century: a silent testimony left one stone at a time by thousand of visitors.

Editor's Note: Paul Nucci is a musician and artist working primarily in oils and pastels for over forty-five years.

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By Nora Everlove

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- Appleman's On Insurance
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The following items were ordered by request:

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Friendly Passages

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