

Transcript

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African-American HISTORY, ABE & BARACK

by John Patrick Quigley

This year, the American Bar Association (ABA) celebrates Law Day on May 1st with recognition of the bicentennial of Abraham Lincoln's birth, on February 12th. In this article, we discuss not only Lincoln, but African-American History which he affected so greatly, also celebrated in February, and the inauguration of America's first African-American President.

Abraham Lincoln

"...the Democratic party in the North sought to win the presidential election on the plea that the war was a failure and should be discontinued....The gaunt, tall man at the White House found himself with defeatists, traitors, dismissed generals, tortuous party politicians and a doubting and fatigued people behind him,..." The Outline of History (p. 796), by H. G.Wells.

In Our Secret Constitution – How Lincoln Redefined American Democracy, GEN A E457.2.F57 2001, the author uses biased commentary and vague themes of "nationhood, equality, and democracy" (on p. 3 – notice the absence of liberty), to support his advocacy of a "secret constitution." It seems to consist of undemocratic interpretations of the real Constitution. But we can partially agree to his proposals that the original Constitution was designed to maximize Liberty by restricting the Federal government, and that many southerners may not necessarily have been defending slavery as much as they were defending their liberty.

The Declaration of Independence declared: "that all men are created equal," and Liberty and Equality have been uncomfortable bedfellows ever since. A simplistic, modern view might be that conservatives favor Liberty and that liberals, including the author of Our

Secret Constitution, favor Equality. Although an outspoken opponent of slavery, Lincoln reportedly suspended both Liberty (the Writ of Habeas Corpus) and Equality (Emancipation) in favor of Nationhood (preservation of the Union).

His famous Gettysburg Address begins: "Fourscore and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty and dedicated to the proposition that all men are created equal.

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Law Day 2009: The Lincoln Legacy

by Steven Nadolny

Law Day, an annual event cosponsored by the American Bar Association, et al. was begun in 1957 by the Association. The event has grown and spawned local and national events and contests. Celebrated on May 1st each year, "Law Day is a special day aimed to help people appreciate their liberties and to affirm their loyalty to the United States, especially with regard to equality and justice. It also aims to cultivate respect for the law, which is vital to the democratic way of life." And while not an official holiday it was formally established by President Eisenhower in 1958 by presidential proclamation. This year's theme: "A Legacy of Liberty:

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New California Legislation

contributed by Mora Prestinary

Cell Phone Use

Vehicle Code Section 23123.5, relating to vehicles.

23123.5.(a) A person shall not drive a motor vehicle while using an electronic wireless communications device to write, send, or read a text-based communication.

Since July 1, 2008, drivers have been required to use a hands-free device while talking on a cell phone and driving. Now, text-based communication while driving is prohibited as well, with the same penalties -- \$20 for the first offense and \$50 for subsequent offenses. Specifically, the law prohibits writing, sending or reading text-based communication including text messaging, instant messaging and e-mail, on a wireless device or cell phone while driving. (Smoking while driving - or even if pulled over on the side of the road - becomes illegal in 2009, if a minor child is traveling with you.)

Driving Under the Influence (DUI)

Driving under the influence: repeat offense. An act to amend Sections 13353.1, 13353.2, 22651, 42009, and 42010 of, and to add Sections 13389 and 23154 to, the Vehicle Code, relating to vehicles.

DUI Probation License Suspension. A change in the driving under the influence (DUI) law creates a new authority for DMV to administratively suspend the driver's license for one year under a zero tolerance standard. The new law authorizes law enforcement to issue a notice of suspension and impound the vehicle of a person who is driving with a blood-alcohol concentration (BAC) of 0.01 percent or greater while on court-ordered post-DUI probation.

Family and Medical Leave Act (29 USC 2611)

Families who have members who are active in the military are eligible for up to 12 weeks of leave if they meet the "qualifying exigencies: short notice deployment, attendance at official military events or activities, arranging or providing childcare, attending school or daycare meetings, handling financial and legal matters, and rest and recuperation visits when the soldier is on leave."

Minimum pay for exempt computer professionals

Labor Code 515.5: The employee's hourly rate of pay is not less than thirty-six dollars (\$36.00) or, if the employee is paid on a salaried basis, the employee earns an annual salary of not less than seventy-five thousand dollars (\$75,000) for full-time employment, which is paid at least once a month and in a monthly amount of not less than six thousand two hundred fifty dollars (\$6,250).

This amendment allows payment to computer professionals as a monthly or annual salary. Before this change, computer professionals had to earn a minimum hourly rate, set by the Division of Labor Statistics and Research (DLSR) annually. The hourly rate for 2009 is increased from \$36.00 to \$37.94. For 2009, the minimum monthly salary exemption is \$6,587.50, and the minimum annual salary exemption is \$79,050.00.

Nutritional Information for Chain Restaurants.

An act to add Section 114094 to the Health and Safety Code, relating to food facilities.

A new law requires chain restaurants with 20 or more facilities in California to post nutritional information. Beginning July 1, 2009, to December 31, 2010, each facility must disclose nutritional information or calorie count information about the food it serves. Nutritional information includes, but is not limited to, all of the following, per standard menu item, as that item is usually prepared and offered for sale:

- Total number of calories;

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LOOKING AHEAD AT OCPLL

By Maryruth Storer, Library Director

The New Year is an opportunity to review some of the prior year's developments and look ahead to what might come during the current year.

In the last months of 2008, the Library added two additional patron computers, for a total of eight. Our computers are available without charge for patrons doing legal research or seeking access to government documents information. Patrons have had free access to Matthew Bender's California titles, CEB's OnLAW, HeinOnLine, Legaltrac and portions of Westlaw for several years, and now we've added access to several BNA databases and a CCH tax database.

From Bureau of National Affairs (BNA), a legal publisher since the 1930s, we subscribe to databases of the Labor & Employment Library (including Americans with Disabilities Act Manual), Tax Management Portfolios (U.S. Income, Foreign, and Estates, Gifts & Trusts), ABA/BNA Lawyers' Manual on Professional Conduct, Criminal Law Reporter, Family Law Report and U.S. Law Week.

Commerce Clearing House (CCH), a Wolters Kluwer business, is providing Standard Federal Tax Reporter, topical access to federal tax information, and California Tax. Only one person at a time may access the CCH databases.

Our other accomplishment at the end of 2008 was completion of the long process of installing equipment in the Microforms Room on Floor A and arranging our extensive microforms collection. This was the final step to organizing the collection following the building expansion project, which completed in 2006. As of June 30, 2008, the Library had 1,099,621 pieces of microfiche (equivalent to 183,270 print volumes), 735 rolls of microfilm (equivalent to 3,675 print volumes) and 9,927 ultrafiche. Printing pages from the microforms reader-printer machines is free. The room is kept locked to assist in temperature and humidity control, so just ask a staff member at the Public Services Desk to take you there and help you find what you need.

Throughout the coming year, we anticipate adding new titles to our collection. On an ongoing basis, our staff reviews new publications for suitability for our collection. Check our Recent Acquisitions List at www.ocpll.org/new.htm#acquisitions to see the latest additions. We welcome suggestions from patrons for additional materials to be considered for the collection.

Sometime this summer the County's Co-Generation Plant construction project should be completed. After our parking lot is cleaned up from the construction dirt, we'll install a new book return bin (known as a "book drop" in library lingo.) Borrowers are able to return library materials here at any time of the day or night, and you won't incur a parking charge if you make it back to the attendant within five minutes of entry!📖

Looking at the Web

by Mora Prestinary, Reference Librarian

African American History Month (Library of Congress): <http://www.loc.gov/topics/africanamericans/>

Law Day Home: <http://www.abanet.org/publiced/lawday/2009/home.shtml>

California Codes: <http://www.leginfo.ca.gov/>

US Codes <http://www.gpoaccess.gov/uscode/>

Tax Forms

States: <http://www.taxadmin.org/fta/link/forms.html>

Prior California tax forms (1985 – 2007): <http://www.ftb.ca.gov/forms/priorYR.shtml>

Federal: <http://www.irs.gov/>



Now we are engaged in a great Civil War, testing whether that nation or any nation so conceived and so dedicated can long endure.”

In discussing the history of America, we must emphasize our nation's nature as a democracy, where politics are kaleidoscopic, reflecting different combinations of values at different times. As dedicated to liberty and equality as Lincoln was and as single-minded as he seemed to be in preserving the Union, he was forced to accommodate the political realities of his day, documented most effectively in Carl Sandburg's famous biography. We have the four volumes of Lincoln: the War Years at GEN A E457.4.S36.

Our library has several other books on Lincoln, some of which are included in our Spring Book Display. Especially easy to read are: Abraham Lincoln: An Illustrated Biography, GEN A E457.E4; Lincoln: A Picture Story of His Life, GEN A E457.6.L78 1975; and Lincoln: His Words and his World, GEN A E457.92 1965.

African American History

Of non-legal interest is an unusual book: Time on the Cross: the Economics of American Negro Slavery, GEN A E449.F65. Published in 1974, this book applies statistical and mathematical methods to challenge conventional beliefs that slavery was economically disadvantageous, both to society and slaves.

Returning to a more political analysis, the legal conflict between slavery and its abolition is reflected in an 1841 U.S. Supreme Court Case, United States v. the Schooner Amistad (a ship which was seized on the high seas by its cargo of slaves), 40 U.S. 518, GEN A KF101.A2U5. This fascinating case was the basis of a recent movie and a past article in this newsletter, which we include in our spring display.

After the Civil War and the assassination of Lincoln, three Amendments to the Constitution were ratified which abolished slavery, gave the former slaves citizenship, and then the right to vote. We can agree with scholars who claim that the Fourteenth Amendment's mandate for “equal protection of the

laws” was a major redirection of Constitutional Law and the source of continuing debate as to its meaning. Does it only require equal treatment by the government, or does it also require government action to promote equality of its citizens, even at the price of restricting liberty?

The Amendment was involved in Contempt of Court: The Turn-of-the-Century Lynching that Launched a Hundred Years of Federalism, GEN4 KF224.J63C87 2001, which explains two U.S. Supreme Court Cases, United States v. Shipp and Ed Johnson v. the State of Tennessee, 214 U.S. 386, 485 (1909), GEN A KF101.A2U5. (Shipp was a Tennessee Sheriff who failed to prevent the lynching of a black defendant, Ed Johnson.)

In Brown v. Board of Education, 347 U.S. 483 (1954), *ibid*, the U.S. Supreme Court ruled that “separate but equal” schools by state government were inherently unequal. Treatises on this major case are located at KF4155 and in our display. Later cases required integration by schools to undo the effects of past segregation.

Recent cases seem to reach a compromise in ruling that schools *may* consider race to achieve “diversity” in their students, but will be closely monitored by the courts to assure equal protection of the laws. See Gratz v. Bollinger and Grutter v. Bollinger, 539 US 244, 306 (2003), GEN3 KF101.A2U5, with opposite results, and Google “Affirmative Action, Discrimination & Diversity” for our previous discussion of these cases.

Barack Obama

And now we have elected an African-American President. President Obama reportedly praised Lincoln's nomination of former rivals for his Cabinet. Although we can all join in the joy over an occasion at least as historic as the election of Lincoln, it is probably premature to talk about putting Obama beside Lincoln on Mount Rushmore, even though he seems to be trying to follow Lincoln's example by nominating rivals.

For Secretary of State, Obama nominated Senator Clinton, whom crit-

ics claim has no experience in foreign affairs. For Secretary of Commerce, he nominated Governor Richardson, who withdrew from the nomination during an investigation into donations to him.

An unofficial function of the Vice President is as spokesman for the Administration, and Obama nominated Senator Biden, who inadvertently insulted African-Americans and mistakenly referred to American history in remarks to the New York Observer and CBS News. Luckily, Senator Edwards was exposed as having cheated on his dying wife before Obama had a chance to nominate him for something. 📖



Law Day 2009: The Lincoln Legacy (Continued from page 1)

This year's theme: “A Legacy of Liberty: Celebrating Lincoln's Bicentennial” marks the 200th anniversary of the birth of perhaps our nation's greatest lawyer president. Multiple grade level lesson plans, planning material, informative brochures, etc. are available from the ABA website at: <http://www.abanet.org/publiced/lawday/2009/home.shtml>. And keeping pace with the times and looking to involve a younger audience, this year's celebrations also include YouTube contests by the New Jersey and Ontario [Canada] Bar Associations.

Law Day is a chance for us to remember the importance of the law and the courts in our land and the delicate balance of liberty that we enjoy in our great nation. True freedom is often hard won at a great price. This year's focus allows us the opportunity to remember Lincoln and true presidential leadership in times of crisis. Check for local activities in your area.

Source: <http://www.timeanddate.com/holidays/us/law-day> 📖

The Little Red Book of Wine Law, A Case of Legal Issues

a review by Kelsey Chrisley



Sometimes reading secondary sources can be quite dry, but in this case is rather sweet. A new acquisition in the Law Library's collection is certainly able to provide one with the clarity of wine law while pleasing the palate. Carol Roberston's *The Little Red Book of Wine Law, A Case of Legal Issues* presents an overview of the wine industry and associated case law. A crisp and brief introduction to the history of the United States wine industry is followed by an interesting mix of case law and vignettes. Some of the topics of the case law to savor include trademark law, prohibition, family business disputes, labor unrest, contract law, growth of Napa Valley and terroir. The finish is the maneuver of the United States to file a complaint with the World Trade Organization concerning the Trade Related Aspects of Intellectual Property Rights (TRIPS Agreement) commonly called the "Budweiser® Ruling". You can locate this book on the fourth floor, KF 3924.W5R633. Enjoy this light and quick read with your favorite meal. 📖

ON DISPLAY

Our spring display features materials on related subjects: African-American History, celebrated in February, and Abraham Lincoln's Birthday, also celebrated in February, whose two hundredth anniversary is celebrated by the American Bar Association (ABA) as 2009's Law Day, on May First.



New California Legislation (Continued from page 2)

- Total number of grams of carbohydrates;
- Total number of grams of saturated fat; and
- Total number of milligrams of sodium.

Global Positioning Systems (GPS)

An act to amend Section 26708 of the Vehicle Code, relating to vehicles. This new law allows a portable GPS device to be mounted in a 7-inch square in the lower corner of the windshield on the passenger side of the vehicle, or in a 5-inch square in the lower corner of the windshield on the driver's side. These are the only two locations on a *windshield* where a GPS device can be mounted. The GPS device can only be used for navigational purposes while the motor vehicle is being operated, and it is required to be mounted outside of an airbag deployment zone.

Computer bullying:

An act to amend Sections 32261, 32265, 32270, and 48900 of the Education Code, relating to pupil safety. Allows school officials to suspend or recommend expulsion for pupils who engage in bullying by electronic means, including over the Internet. 📖

TECHNOLOGY AT THE ORANGE COUNTY PUBLIC LAW LIBRARY

INTERNET DATABASES AND LEGAL RESEARCH PROGRAMS

(FOR SPECIFIC CONTENT CONTACT PUBLIC SERVICES STAFF OR CATALOG)

BNA Online -

Labor & Employment Library
Americans with Disabilities Manual
Tax Management Portfolios
ABA/BNA Lawyers' Manual on
Professional Conduct
Criminal Law Reporter
Family Law Report
U.S. Law Week

CFLR DissoMaster Suite

HeinOnLine -

Federal Register
U.S.Reports
Law Reviews
Treaties

LegalTrac –

Legal Periodical Citations

California Law and Practice Library
(formally known as Authority)

LLMC Digital-

Federal Documents
State Materials

CCH Tax Research Network

Westlaw® -

All States & Federal
Keycite
Rutter Group
Witkin titles

CEB OnLaw

OCPLL will be closed for the following Holidays

February 16 -  President's Day 

March 31- Cesar Chavez Birthday

May 25 - Memorial Day

Orange County Public Law Library

515 N. Flower Street
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Phone: 714-834-3397

Fax: 714-834-4375

www.ocpll.org

Regular Library Hours

Monday –Thursday 8 am-8 pm

Friday 8 am-5 pm

Saturday 9 am-5pm

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