Papa Lyman Remembers- (Part of) The XX Century

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Legally Speaking
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In August of 2006, the 8th Circuit Court of Appeals declared that the rule forbidding the citation of unpublished cases was unconstitutional. The reasoning was that "Inherent in every judicial decision is a declaration and interpretation of a general principle or rule of law. This declaration of law is authoritative to the extent necessary for the decision, and must be applied in subsequent cases to similarly situated parties. These principles, which form the doctrine of precedent, were well established and well regarded at the time this nation was founded." The 8th Circuit concluded that the Constitution did not allow courts to ignore previous decisions, to do so was an abuse of judicial power.

The ideas of vendor-neutral citation and use of unpublished cases are in many ways the last frontiers in legal research. Both of these concepts rely on access that has only been possible since the development of the Internet. The vendor-neutral citation format has been discussed or adopted in several states, and the use of unpublished opinions is on the rise. It remains to be seen what will happen with these two concepts.

Throughout the centuries, written law has given society rules to live by, and ideals to strive for. The printing press made reproduction of books feasible, and the Internet made publication easy. With the heritage of the printed law book keeping our liberty intact, we can start the new Millennium knowing that legal publishers and law libraries will play an important part in the world of tomorrow. As the future becomes the present, the written law ensures that we also look at our past. After all, those who cannot remember the past are condemned to repeat it.

Questions & Answers
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duced at will in slide form for the library or by faculty on their Webpages? What about copying from more recently published books and periodicals or does the publisher or photographer own the copyright?

ANSWER: Photographs of either two or three-dimensional works of art are also copyrighted. This is the case even though the underlying work is now in the public domain. The photograph of that work still may be protected since photographs are copyrightable regardless of subject. Many art history teachers, etc., have asked to have so-called "copy photography" exempted, but so far the Act has not been so amended.

Reproducing the photos is no different than copying any other copyrighted work for the library. For faculty Webpages, if access to the images is limited to one class, password protected, and available only one term without permission of the copyright holder, it may fall under the multiple copying guidelines since putting something on a restricted Website is the equivalent of multiple copying. However, teachers should closely follow those guidelines which includes restricting access to the class and removing access at the end of the term. Otherwise, it is infringement.

QUESTION: An instructor wants to reproduce for her class reader a portion of an out-of-print book, published in 1970 by a small, independent publisher. The instructor has been unable to locate the publisher in order to seek permission, nor could she locate the printer. It appears that both are no longer in business. Further, the author cannot be found in the local phonebooks. Does the instructor have any other recourse for seeking permission to reproduce a portion of the book for the course reader? If a permission-granting source cannot be located, is it appropriate to apply the four factors delineated under the fair use section of the Copyright Act to evaluate whether or not to reproduce a portion of the work?

ANSWER: Not only is it appropriate to apply the four fair use factors, it is all that one can do. Then conduct a risk assessment. What is the chance someone will complain, and if they do so, what is the likely worst case scenario?

Since the publisher and printer appear no longer to be in business and the author is not in the phonebook, there are a couple of other things you might do. (1) Look for the author via the Internet and other phonebooks from surrounding towns. (2) Contact the U.S. Copyright Office to see if they can give you any clue from their records about the location of the copyright holder, since the defunct publisher may have transferred the copyright. Then, do the risk assessment. It may be that there is so little risk that the faculty member should just go ahead and reproduce the material for the course reader.

Papa Lyman Remembers (part of)
The XX Century

by Lyman Newlin (Book Trade Counsellor, Broadwater Books: <broadwater@wnyp.net>)

As usual, my story is being written just as the deadline approaches. But there's a coincidence with two notable dates. The first lines are being written on November 11, 2000. The November eleventh which stands out in my memory is that of nineteen hundred eighteen—the day ending World War I—Armistice Day as it was called until 1954 when its name was changed to Veterans Day and it became a national holiday commemorating the veterans of both world wars. On that day 82 years ago the town of Garrett, Indiana was wildly celebrating as were thousands of other municipalities large and small. But the Garrett celebration was atypical in that a large percentage of citizens were of German lineage. To have a German surname or accent or to be a pupil or in any way associated with a parochial school of Lutheran affiliation which used the German language (or had used it prior to America's entry in the War) was sure to be suspicious of being friendly to the "Enemy." Between our home and our school I had to pass a small Lutheran elementary school. If there were two or more fellow pupils going past that school and we could catch "one of them" we would chase him back into his school house. If we caught him he was due for a good pummeling. Kids were not alone in this physical display of "patriotism." During the first Armistice Day (11/11/18) celebration some "patriots" forced the Lutheran pastor to crawl on his hands and knees behind an American flag during a parade. I don't recall similar public behavior during or after WW II although there was much "to do" about citizenship of Japanese lineage. Incidentally, just to show you how things come full-circle, I have been a Lutheran myself for more than three decades now, and both of my sons went to Lutheran catechism school.

The other recent and much more generally and cordially celebrated holiday was All Saints Day—Halloween. In fact this day is rapidly affronting Christmas as being generally more popular with kids. "Tricks or Treats" was not the way they did this holiday in my day— I can't continued on page 79

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spoke much for what kids in big cities did - I
spent my sixth grade in Chicago and I recall
soaping store windows on Madison Street
west of Central and being chased by one of
the proprietors. But oh, those outdoor privies
in small towns and rural areas! To go down
an alley and push over outhouses was great
sport, especially if you could find one occu-
pied. It was the risk of falling into an
odoriferous pit. My father used to tell us
about the supreme prank of his youth — the
hoisting of a horse-drawn hearse on the
roof of their school house on the north edge
of Decatur, Illinois, by a bunch of scholars
some of whom became lawyers, bankers, and
gerymen (Dad turned out to be a Presbyte-
rian minister for sixty or so years thereafter).

Since our nation is currently in an
election uproar I can recall a couple of interest-
ing but innocuous predecessors. In 1924 our
family occupied the Presbyterian manse in
Shelby, Iowa. During the summer my dad
acquired one of the very first radios with a
loudspeaker and thus we replaced our earlier
"tube" set headphones — During the August
National Democratic Party Convention an
Alabama Senator by the name of Underwood
was a candidate for nomination as candidate
for president. This must have been one of
the most drawn out of all nominating
conventions. I can still hear the clerk calling
out “Alabama casts sixteen votes for Underwood”
time after time. Forgive me if I can’t remem-
ber the correct number of Alabama votes nor
the number of ballots cast before John Will-
iam Davies was nominated to run (unsuccess-
fully) against Calvin Coolidge— Dad would
take our telephone off the hook so that friends
who had no radios could ring up and hear
the goings on — This radio came only three or
four years after our first which was one I made
as a sixth grader by winding copper wire
around an oatmeal box, with the wire attached
to a “whisker” which was stroked across a
piece of galena crystal. Don’t ask me about
why this could pull radio waves into your
home. And TV was still 15 or more years in
the future. I don’t know about you but look
at what evoked my memory by just these
events of the past ten days!

Going back to Indiana for a minute —
Garrett was about four miles from Auburn
which was famous for the manufacture of
high profile automobiles — The Cord, the
Diana, the Moon, and the Auburn, and of
course, the Dusenberg. Did you know that
in the 1920s over 200 different brands of
automobiles were manufactured in Indiana?
Michigan was still making lots of buggies.
Auburn’s auto museum is worth going out of
your way to see some great cars. I learned to
drive a model T Ford at age 9. I still have a
scar on my right thumb from a model T
“Kick” (back-fire from having your spark
lever too far down). No automatic transmis-
sion - in fact no shift lever on a model T.
Three floor pedals: the left one was the clutch
— to the floor for start in low gear - halfway
was neutral which you had to hold in that
position to get into reverse by pressing
middle pedal to the floor. Right pedal was
brake which you applied with right foot while
left foot pressed clutch pedal held way down
— for neutral — No fuel throttle; it was a
lever on the right side of steering post (just
below wheel) — a throttle lever on left side
increased the “spark” ignition — and too much
of that in the cranking operation resulted in a
backfire kick which often ended up in a broken
wrist or arm or cut from the license plate.

The fuel tank was under the driver’s seat.
No fuel pump was needed: gravity took its
place. If your fuel supply was low and you
were on a steep hill, you turned around and
“backed” up the hill. The reverse pedal also
came in handy when your low gear was worn
thin — again you merely turned around and
pushed the middle (reverse) pedal because
that gear was not used as much as low gear
and up the hill you went backwards.

Going back to the telephone situation in
the 1920s and 1930s. Although dial phones
were not as yet in common use and patrons
had to rely on the operator (often called “Cen-
tral”) and “party” lines with six or eight
homes on the same line, there was one great
advantage: One of the main social activities
was visiting and playing cards with your
neighbors. If the Joneses were at the Smiths
for an evening of whist or pinochle and
another neighbor wanted to advise of cattle in
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John Benjamins has two faces. One face is the antiquarian business in which the company buys and sells (usually) complete runs of journals of historical interest, usually in the arts and the humanities. Here a particular specialty is rare French art periodicals from the late 19th and early 20th centuries. The other face is that of an independent academic publisher. The company was founded by John and Claire Benjamins, who remain active in the management of the company, though the Chief Executive Officer of the company is now their daughter, Seline Benjamins.

With offices in Amsterdam, The Netherlands and Philadelphia, USA, the company is surprisingly young — the antiquarian interest dates back to the late sixties, while the company only began new book publication in 1976.

Highlighted by a strong traditional presence in the field of Linguistics, the John Benjamins new title list also contains important work in such other fields as Psychology, Literary Studies, Philosophy, Translation Studies, Interpreting, Terminology, Lexicography, Organizational Studies and Art History. The focus of the company is toward anything involving language and/or communication, publishing higher-level course books, as well as reference works, monographs, proceedings, and collective themed volumes. As with most publishers, John Benjamins has moved into Web ordering, CD-ROM publishing, on-demand publishing and so forth, taking advantage of various new technologies.

Many of the books are presented in such well-established book series as Current Issues in Linguistic Theory, Pragmatics and Beyond, Typological Studies in Language, and the Benjamins Translation Library — to mention just a few. More recently Advances in Consciousness Research has provided a forum for the groundbreaking research into consciousness, and Studies in Corpus Linguistics for books in corpus and computational linguistics. Information on the latest new book series can be found on their Web site under NEW PROJECTS AND BOOK SERIES.

Among the journals published by John Benjamins can be found perennial names such as Studies in Language, Diachronica, English World-Wide, and Target. For the latest information on new journals, there is the section NEW JOURNALS on the Web site.

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Since the acquisition in 1992 of the B.R. Gruner Publishing Company, a publisher of titles mainly in Philosophy, books under the B.R. Gruner imprint can be ordered directly from the appropriate John Benjamins office.

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Papa Lyman Remembers
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the road rather than in their proper pasture, all patrons of the same party line had the news. If the Joneses were visiting at home on a different line — it was only necessary to tell “Central” where to ring. Which brings up the “ring.” Each patron had a separate “ring.” Two longs and one short could be the Jones’s ring and one long and two shorts would be Smiths. Of course this system put “Central” in the position of news monger if not outrageous gossip. Naturally there would be a tendency to distort, exaggerate or even falsify. But on the whole the system worked and helping hands were much more evident than hindering hands.

In looking over a reprint of the May 1953 issue of “Consumer Reports” chiefly concerned with 1953 automobiles, I observe that several popular makes are no more — these include Hudson, Nash, Studebaker, Packard — If in 1953 a reader would have researched auto brand names of the mid twenties over two hundred makes would have been missing — This issue of “Consumers also evaluates record changers and carriages — no CD players —. Movies which scored highest in May 1953 were Walt Disney’s BEAR COUNTRY; COME BACK LITTLE SHEBA, with Shirley Booth and Burt Lancaster; HIGH NOON, Gary Cooper and Jeanette Nolan; MOULIN ROUGE, José Ferrer and ZaZa Gabor. They don’t make ‘em like those any more!

Several legacies of the thirties and forties are still with us; included are End of Prohibition; The Work Progress Administration (WPA). In spite of shovel leaning workers as they labored on building bridges and public buildings, many of which are still in use, the Writers Project created State histories most of which are still in print and all are in demand by state history scholars. The Civilian Conservation Corps put thousands of unemployed, hapless young Americans to work in forestry, conservation, state and federal park improvement; many of which projects are flourishing today.

Some country boy memories — A wood burning cookstove with a hot water reservoir. Saturday night bath in a galvanized washtub. Facts of life learned from older boys. When my brother and I were advised by these teen age know it-alls of the human method of procreation, we vehemently disavowed such procedure on the part of “our” parents; after all our father was a preacher. Having used that word, I have chosen not to bother my readers with the PK (preacher's kid) litany — I have always pitted kids who lived in large cities without having gone through some country or small town living. I never learned to ride a bicycle — ponies and horses were plenty for me. Before the day of consolidated schools and their buses country kids walked or rode ponies to school. By high school time they had access to an automobile to “get in to town” — and that meant more opportunities to have a car for an important date. Drivers’ licenses were non existent — speeding tickets were unheard of — even if your car were capable of 60 mph, where could you find a road that wouldn’t shake you and your car to pieces after 45 mph? Although boozers were not unknown to autodrivers during Prohibition, DWI was an unheard of occurrence. For a teenage fellow to get the family auto and tool around the “Square” at 3 mph meant that other guys would envy him and girls would pay attention to him.

As I wind up these memories, the TV and radio “business” reporters are blabbering about on-line retailers and mouthing the promises of rectifying delinquent 1999 blunders. My question is how long can these vendors continue hoodwinking investors as well as customers? HAPPY NEW YEAR! 🎉