

To the Bag

limit who has standing to bring such a claim. In general, as long as the person meets the traditional “Article III” requirements for standing, that is sufficient. In the Establishment Clause context, no one (to my knowledge) is contending that someone directly and uniquely affected by an alleged violation of that Clause (*e.g.*, one might imagine a case in which Mrs. Bond had been convicted and imprisoned under a federal law that made it a crime to fail to swear allegiance to a National Church), would lack standing to challenge the government’s action. Instead, “taxpayer” standing is a very limited exception to the ordinary rules of standing, and it is an exception that the Court applies only in the Establishment Clause context, thus giving potentially more plaintiffs standing than would be the case for any other constitutional claim.

Indeed, *Chemerinsky* had it backwards in a sense, because *Bond v. United States* is a resounding victory for citizens who seek broader recognition of standing to bring constitutional claims against governments. For that reason, I would have expected *Chemerinsky* to praise rather than implicitly criticize *Bond v. United States*.

Stephen R. McAllister
University of Kansas School of Law
Lawrence, KS

TRAGEDY AND MERCY IN PUERTO RICO

To the Bag:

Professor Stephen R. McAllister’s account of *Kentucky v. Dennison* (“A *Marbury v. Madison* Moment On The Eve Of The Civil War,” 14 GREEN BAG 2D 405), is an excellent read. However, his account of *Puerto Rico v. Branstad*, which overruled *Dennison*, is too summary.

What did the Governor of Iowa do when he was told by the Supreme Court he had to honor the request of the Governor of Puerto Rico to return Ronald M. Calder, the object of the extradition effort, to the Commonwealth to face trial on charges of murder and attempted murder, whatever the Governor’s views were of its justice system? And, what happened to Calder upon his return? What

To the Bag

follows is that history gleaned from court dockets and newspapers of the day with help from an assiduous librarian.

As described in part in *Branstad*, Calder, then a civilian air traffic controller, faced charges in Puerto Rico for killing a woman eight months pregnant by running her over in a shopping center parking lot. Calder contended he accidentally ran over the woman in an attempt to get away from her husband, with whom Calder had an argument after their cars collided in the parking lot. After being arraigned on a charge of involuntary manslaughter and being released on bail, Calder fled to his home state of Iowa. Calder's lawyer, who was suspicious of Puerto Rican justice, said Calder ran away from Puerto Rico because, as a resident of the continental United States, with no ties to the Spanish-speaking Commonwealth, he could not receive a fair trial. After Calder fled, the charges were increased to first-degree murder and attempted murder.

Both Governor Robert Ray and his successor, Governor Terry Branstad, declined to sign the necessary papers for extradition, with Governor Ray stating that in the absence of a "change to a more realistic charge," the request for extradition would be denied. This resulted in an approximately six-year effort by the Puerto Rican authorities to get Calder back to Puerto Rico to stand trial.

Well, Governor Branstad's case was made easy by Calder; he voluntarily returned to Puerto Rico to stand trial. His wife, Jeanne, is quoted in an *Associated Press* account as saying to reporters that Calder returned so "we can put all this behind us." Upon his return, Calder was released on bond pending trial.

Calder went to trial in late January, 1988 on murder and attempted murder charges. On the second day of trial, Calder pled guilty to reduced charges of voluntary manslaughter and attempted manslaughter. He received a 15-year suspended sentence. He was allowed to return to Iowa to serve his 15 years of probation.

An interesting end of the story is the effort of Puerto Rico to get Calder to pay the \$172,216.00 it cost to bring him back from Iowa. The trial judge said "no." However, the judge did require Calder to pay the husband of the victim \$10,000.00 to cover the cost of his wife's funeral.

To the Bag

In the end, Calder's fears of the Puerto Rican justice system proved unfounded. Judges with a merciful heart can speak many languages.

Avern Cohn
U.S. District Court for the
Eastern District of Michigan

