

# To the Bag

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## CHIEF JUSTICE OF WHAT?

— TAKE TWO —

*Our holiday card, which included Chief Justice Stone's egg nog recipe, seems to have sparked a debate amongst our readers regarding the proper invocation of the C.J. Here, Professor Volokh abandons the comfortable bulwarks of formalism for a more pragmatic solution.*

To the Bag:

Seems to me that the colloquy on p. 199 of the Winter 1999 issue rests on a false dichotomy. I think it's a mistake to ask whether the Chief Justice is the "Chief Justice of the Supreme Court" or the "Chief Justice of the United States." Rather, he's a "Judge of the supreme Court" (art. III), "the Chief Justice" (art. I, sec. 3, cl. 6), "the Chief Justice of the United States" (the current official title and the most common usage in formal documents), and "the Chief Justice of the Supreme Court [optionally, of the United States]" (see, e.g., Federalist No. 65; 2 USC 135; 344 U.S. 443, 465 (1953); 163 U.S. 520, 520 (1896); 73 U.S. 166, 189-90 (1867); 46 U.S. 96, 96 (1847); 33 U.S. 312, 315-16 (1834); 32 U.S. 634, 650 (1833) ("Witness the honourable John

MARSHALL, chief justice of said supreme court, the second Monday of January, in the year of our Lord ... .")).

He is all those things and more, and not just because of what the Constitution, the cases, or the statutes say. Rather, it's because all the above are acceptable usage in our flexible English language, just as it's acceptable to call my former boss "Judge Alex Kozinski," "Ninth Circuit Judge Alex Kozinski," "Court of Appeals Judge Alex Kozinski," and "Alex Kozinski, Judge of the U.S. Court of Appeals for the Ninth Circuit."

— EUGENE VOLOKH  
UCLA Law School

*Just to beat the horse deader, the caption under the photograph of Chief Justice Rehnquist on the cover of his book, ALL THE LAWS BUT ONE (see John Harrison's review later in this issue, 2 GREEN BAG 2D 333), identifies him as "Chief Justice of the United States and a former Associate Justice of the Supreme Court of the United States." Does this constitute binding precedent?*



## THE SUBVERSIVE

To the Bag:

What? This isn't a porn site? I'm sorry, but as a busy law professor, I have more important things to do than review your Web site [[www.greenbag.org](http://www.greenbag.org)] and read your magazine. I haven't done the New York Times crossword yet today and Judge Judy's on at 3:00. Seems like there was something else I had to do today, but it had something to do with students, so it couldn't have been that important.

I think a law journal describing itself as "entertaining" is subversive. Next, people will expect law professors to be "informative," lawyers to be "ethical," and Bill Clinton to be "honest."

I'll tell our librarian to subscribe, but I can't guarantee success. She's always complaining about her budget and we wouldn't want to discontinue the *North Dakota Journal of Dog and Cat Law*. Our resident Chihuahua Law scholar would be very upset. But we have the 1889-1914 volumes, so maybe there's a chance.

I'd probably have a little more success convincing her if you'd publish my "How Do Law Professors Do It?" article (attached). But

even you couldn't be that subversive. [Well, you'd be better off enclosing the title in four sets of quotation marks and submitting it to Michigan.]

Seriously, I think your journal's a great idea. Keep up the good work!

– C. STEVEN BRADFORD  
University of Nebraska College of Law



Incidentally, our readers apparently missed the fine print on our masthead page for the last couple issues announcing a fabulous Green Bag prize to the contributor of the best original limerick or poem on legal publishing or the Green Bag. (Perhaps “announced” is too strong a term.) In any event, we are keeping the contest open. 