Nobody expects the Spanish Inquisition!

Cardinal Ximinez of Spain

Michael Palin, The Spanish Inquisition (1970)
Ross E. Davies  
Editor-in-Chief

David M. Gossett & Montgomery N. Kosma  
Executive Editors

Senior Editors
Gregory F. Jacob  
Thomas B. Nachbar

Contributing Editors
Daniel G. Currell  
Curtis E. Gannon  
David B. Salmons
Susan M. Davies  
Britton B. Guerrina  
Keith Sharfman
Thomas H. Dupree, Jr.  
Amy Steacy

Board of Advisers
Robert C. Berring  
Suzanne Garment  
Henry P. Monaghan  
A. Morgan Cloud  
Bryan A. Garner  
James M. Rosenbaum  
David P. Currie  
Mary Ann Glendon  
Suzanna Sherry  
Richard A. Epstein  
R.H. Helmholz  
A.W.B. Simpson  
Samuel Estreicher  
Philip B. Heymann  
Kate Stith-Cabranaes  
Leonard Garment  
Dennis J. Hutchinson  
William W. Van Alstyne

The Green Bag 2d is published quarterly. ISSN 1095-5216. © 2006 The Green Bag, Inc., an Ohio nonprofit, except where otherwise indicated and for original U.S. governmental works. “The Green Bag” and the € logo are our registered trademarks. Thanks to Jones Day; Mayer, Brown, Rowe & Maw LLP; and Gibson, Dunn & Crutcher LLP.

Subscriptions. Visit www.greenbag.org to subscribe, or use the form at the back of this issue. For back-issues, call Hein at (800) 828-7571. Claims must be filed within 3 months of the publication date (5/1/06) via subscriptions@greenbag.org. When you buy a subscription to the Green Bag, that is all you are buying – one copy of each issue of the journal for the duration of your order. Everything else we produce is either a gift that may or may not be delivered to some or all of our subscribers (e.g., a bobblehead) or a product that you may purchase separately (e.g., Judge Dave & the Rainbow People). In addition, to the extent that the Green Bag does occasionally and arbitrarily give away goodies, we do not give multiple goodies to anyone carrying more than one Green Bag subscription.

Editorial Policy. We publish authors’ ideas in their own words. We fix typos and mistakes we notice, and do our best to produce beautiful text, consistently formatted. Our additional suggestions are just that.

Author Notes. Gratitude to research assistants is nice. Colleagues who make major contributions should share the byline; those who help in small ways should be recognized in something printed by Hallmark, not the Green Bag.

Submissions. Send them to editors@greenbag.org. We welcome anything short, clear, interesting, and law-related – meaning no more than 5,000 words and zero to 50 footnotes (which count against your 5,000). Letters are welcome.

Dealing with Authority. Citations should be accurate and unobtrusive. Authors may use any form they like. We edit only to keep footnotes from looking like goulash.

Copyright. If a copyright notice appears in an author note, get permission to copy from the author. Otherwise, we hold the copyright (except for original U.S. government works). You may copy such items for classroom use, if you: (1) distribute copies at or below the cost of reproduction; (2) identify the author and the Green Bag; (3) affix proper copyright notice to each copy; and (4) tell us. All other copying requires advance written permission.

Note. This episode of the Green Bag is brought to you by the letter H, for Hamantashen, courtesy of our good friend Marsha Nagorsky’s mother, Sandra Ferziger Grimm.

Correspondence. The Green Bag, Inc., 6600 Barnaby Street NW, Washington DC 20015. Phone (703) 993-8049. Please visit our website at www.greenbag.org or email us at editors@greenbag.org.
Contents

Ex Ante

213 Correction: Misnominator
213 Carolina Promotional Press

To the Bag

215 Judge McGowan & President Kennedy
Jodie McGowan Gardner
Joseph C. Zengerle

216 The Reason Why Scalia
Harold J. Spaeth

216 A Ghostly Reply
Thomas McIntyre Cooley

218 Equal Time for Hamantashen
Marsha Ferziger Nagorsky

219 World’s Best Hamantashen
Sandy Ferziger Grimm

221 Scholars United Against Suppression of the Cleveland School
Arthur D. Austin, Edgar A. Hahn & Erik M. Jensen

Articles

223 Justice Jackson’s Unpublished Opinion in Ex parte Quirin
Jack Goldsmith

232 Memorandum, Ex parte Quirin
Robert Jackson

243 Lesson 7: Overplaying
Steven Lubet
247  Is Constitution Day Constitutional?
Nelson Lund

253  Fustum Funnidos Tantaraboo
Rt. Hon. Sir Robert Megarry

263  Making the Bar Review Fun
Charles H. Whitebread

From the Bag

271  Pebbles From The Paths Behind
Chapter vi
Warner W. Gardner

Reviews

303  Formative Years
George W. Liebmann
The Common Law Tradition: A Collective Portrait of Five Legal Scholars
Edmund W. Kitch

309  Palsgraf
The Rest of the Story
William H. Manz
The Palsgraf Case: Courts, Law and Society in 1920s New York
Michael I. Krauss

Ex Post

317  Rooker Feldman
(1923–2006)
Samuel Bray