

# Con law essay

Law



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Introduction The Lincoln High School seal designed by the School Seal Committee does not violate the Establishment Clause nor does it violate Leslie Fosters or anyone else's right to Freedom of Religion granted by the First Amendment to the United States Constitution. The First Amendment contains the Establishment Clause which states that the government shall make no law " Respecting an establishment of religion". In other words the government shall not endorse religion and it shall not give preference to one religion over another but it does not prohibit the government's entry into religious domain to make accommodations.

In this case the way to determine if the governments actions have endorsed religion it is required to apply the Lemon Test, created by the United States and obtained from *Lemon v. Kurtzman*. The Lemon Test is used to determine whether or not a display violates the First Amendment by endorsing religion. The first prong of the Lemon Test articulates that the government's actions must have a secular purpose. The second prong affirms that the government's action must not have the primary effect of either advancing or inhibiting religion.

Last but not least, the third prong expresses that the governments action must not result in an " excessive entanglement" alongside religion. To determine if the Lincoln High School seal is constitutional it must pass all three parts of the Lemon Test Therefore, since the Lincoln High Seal does pass all three parts of the Lemon Test it is proven that the seal does not violate the establishment clause nor does it violate Leslie Fosters right to Freedom of Religion. Secular Purpose A.

Stated Purpose The Lincoln High School seal passed the first prong of the Lemon Test because it has a secular purpose. Although the seal contains religious symbols they are considered secular because the purpose of them being there is to express the diversity among the students that attend Lincoln High to overall represent the school itself. For example, according to Lynch v. Donnelly the inclusion of a nativity scene in a city display did not infringe the Establishment Clause because the stated purpose was sincere and it was not a sham.

The nativity scene was placed there to show the city's historical background. In Lincoln High School at the beginning of designing the seal the members of the school seal committee were instructed to design and create a seal that represented Lincoln High and its students. The students had many arguments and disputes on how to represent the students because each one of them had different ideas. They did discuss other ways to represent the students but they all agreed that the best way to display the diversity of the students was by the inclusion of the religious symbols.

Since the Lincoln High Muslim Society's office had been vandalized by Christian and Jewish students they suggested to add religious symbols hoping to demonstrate the tolerance and respect they felt toward the views of all the members of the Lincoln High community. The purpose, like in Lynch, was sincere and it was not a sham because they were actually aiming to represent the three most common religions in the school with the purpose to represent the students diversity not the religions the way that the government in Lynch was trying to represent the city's historical background through the nativity scene.

Also, In *Books v. Elkhart* a monument inscribed with the Ten Commandments stood in front of the city of Elkhart's Municipal Building. Forty years after the monuments erection residents of Elkhart County, filed suit against the city alleging that the monument's presence violated the Establishment Clause. The court ruled the monument inscribed with the Ten Commandments to be secular because of its location, outside the Municipal Building, which houses the local courts and local prosecutor's office. This location emphasizes the foundational role of the Ten Commandments in secular, legal matters.

The court stated that a carving of Moses holding the Ten Commandments, surrounded by representations of other historical legal figures, signals respect not for great proselytizers but for great lawgivers. The court found the monument to be secular because it was surrounded by other legal givers which minimized the religious purpose the monument of the Ten Commandments displayed to the community. According to *Books* the court should look at the totality location of the circumstances to determine the actual purpose of the display.

Like in *Books*, you can determine the actual purpose of the Lincoln High seal by looking at the totality of the circumstances. The religious symbols in the seal portray the role religions have amongst the students in the school in a secular way. Since the religious symbols in the seal are surrounded by other secular symbols you can infer that the overall purpose is to represent the school not the religious symbols themselves. You can also determine that its meant to represent the school and its students because of its surroundings similar to how the Ten Commandments in *Books* represents a figure of a historical law giver not a proselytizer.

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The religious aspect in both cases have been proven to have a secular purpose because of their historical backgrounds and the circumstances in which they are present. B. Written Purpose It can also be determined that the Lincoln High School seal is secular by considering the leaflet that accompanied the seal. In the leaflet the members of the school committee wrote that the Lincoln High School seal is intended to represent the school, its population, Lincoln Center City and the state of Fordham.

They wrote this to explain to the community that would see the seal during its inauguration what the symbols represented. In *Adland v. Russ* a monument inscribed with the Ten Commandments located on capitol grounds near Kentuckys floral clock lacked any secular purpose because it was unaccompanied by any other document. Therefore because of the Ten ommandments distinctly religious nature the pre- eminent purpose for the posting of the Ten Commandments is plainly religious. According to *Adland v.*

*Russ*, an effective disclaimer can further strengthen the secular purpose of a public display. Unlike *Adland* the Lincoln High School Seal was accompanied with a leaflet that specifically stated the purpose of the symbols that were included in the seal which overall served to support the claim that the seal had a secular purpose. Effect 1 . Religious symbols The primary effect of the Lincoln high seal did not promote any religion over another because they used the three eligions that were abundant amongst the students.

The members of the seal committee did acknowledge the fact that their were other religions practiced by the students who attended the schools and that

there were other ways to represent diversity but they chose religion and specifically these three because there was a lot of tension going on between them. They contacted one of the members in the committee's father to ask about the religious symbols that corresponded with the religions. The member's dad happened to be a pastor which benefited them to achieve the information they needed to represent the diversity among the students, not necessarily the religion.

The students hoped that by representing all the students as a whole through these religious symbols and the secular symbols the tension would diminish and the vandalizing of the Lincoln High Muslims Society's office would be behind them. The religious symbols that were included in the seal are the Latin Cross, Star of David, and a crescent moon and star. There are religious symbols in the seal but they only take up one third of the seal and they don't advance the religion they exhibit the diversity of the students through religion.

The secular symbols integrated in the seal are the school name, school mascot, and a picture of the school. The outline of Fordham and the state flower and bird have been included to represent Lincoln Center City. The description of these symbols is also included in the leaflet accompanying the seal. Two-thirds of the seal is made up of secular symbols while only one third of the seal is made up of religious symbols. The inclusion of these secular symbols minimizes the effect that the religious symbols have on the seal simply because there are more secular symbols than religious symbols.

In *Allegheny v. ACLU* a crèche donated to the city by a Roman Catholic group was placed on the staircase of the County Courthouse, the county's seat of government. With a banner it that said "Glory to in the highest". The Court reasoned crèche stood alone and contained an unmistakable religious message. Unlike *Allegheny* the religious symbols in the Lincoln High seal do not stand alone, they are surrounded by other secular symbols which gives off a secular message instead of a religious one.

The secular symbols delude the significance of the religious symbols because it shows that not only the religious symbols represent the school and its students. Therefore, all the symbols are of equal importance. Also in *Allegheny* another display outside another government building included a menorah and Christmas tree. On the other hand that court held that the menorah and Christmas tree had a secular purpose therefore they did not violate the Establishment Clause.

The court noted that the display was not constitutional simply because it included two religions. Rather, it was constitutional because it celebrated the two holidays using what the Court viewed as secular symbols. This made the display, in the Court's view a recognition of the two holidays, rather than an endorsement of them. Like in the Lincoln high seal the religious symbols are not secular simply because it includes the three religious symbols, but because it represented the schools students and their diversity like it was stated in the leaflet.

The religious symbols in The Lincoln High seal, like in *Allegheny* are viewed as a recognition of the religions in the school rather than an endorsement of

them. According to Allgony, courts have never required that displays with religious symbols contain a symbol of every religion to be constitutional. In other words a display that contains a religious symbol doesn't need to have a symbol on every religion in order to be constitutional and not violate the Establishment Clause. The Lincoln High School seal does not need to have a symbol of every religion in order to be constitutional.

It is obvious that there are more religions practiced in the school other than the ones provided in the school but it also needs to be recognized that those three religions are the ones that are mostly practiced among the students. The religious symbols don't make the secular symbols religious but the secular symbols do make the religious symbols secular because it emphasizes what the religious symbols are actually representing which is the students and their diversity in the school. In *Friedman v.*

*Bernalillo*, The case challenges a county government's use of a seal bearing, among other things, a Latin cross and the Spanish motto, "CON ESTA VENCEMOS,". While the cross is the primary symbol of Christianity, the Establishment Clause does not prohibit all references to objects of some religious significance. The district court found that a secular legislative purpose is served by the county seal because it is used to promote the appreciation of the heritage, history and cultural pride of Bernalillo County.

In the Lincoln High School seal the religious symbols in are used to promote the diversity among the students and represent the school. All in all both cases the displays have been ruled to have a secular effect even though they contained distinctively religious symbols because like in Lincoln High



the seals distinctive religious symbols don't endorse religion because of their purpose. 2. Secular Symbols The secular symbols in the Lincoln High School seal diminish the effect that the religious symbols portray. In *Kuhn v.*

*City of Rolling Meadows* the seal contained a church, which was considered a religious symbol. It surrounding secular symbols was a house, a family and trees. It also had city of Rolling Meadows and State of Illinois around the seal. The seal was considered constitutional because of the overall effect was not to endorse religion. The church was more than just a religious symbol it was a historical symbol as well because of its historical background. Also the secular symbols surrounding it made it obvious so distinguish the fact that the church was included to emphasize the city's heritage and culture.

The religious symbols in the seal weren't anymore prominent than the secular symbols which reveal that they are all of equal importance. Like in *The Lincoln High School* seal the three religious symbols also don't endorse religion because its surrounding symbols are secular which reduce the religious meaning that the religious symbols have and make all the seals of equal importance. Like in *Kuhn* the religious symbols in the Lincoln High seal are not more prominent than the secular symbols in the seal and they don't have anything special to them that distinguish their importance from the other seal.

With the inclusion of the secular symbols the religious symbols in the Lincoln High seal do not have an overall effect of endorsing religion. Rather, its overall effect is to represent the diversity in the school. In *FFRF v. City of Wyoming* the seal contains a house a golf course, a house, a building and a

chapel. In this case it was also determined that the seal is constitutional because of its secular symbols. The golf course, building, and house all represent the City of Wyoming, Michigan.