# CROSS EXAMINER

Vol.1 No.2 UCLA School of Law February, 1974


# Placement Office Cross-examined

## Favoritism denied

The Placement Office, located on the main corridor, is a daily watering hole for many if not most of the law school citizenry — especially 2nd and 3rd year students.

And, because of its function as the main source of job information for students it is particularly vulnerable to charges of incompetence and favoritism.

Diane Gough, Chief Placement Officer, heatedly denies such charges. "We don't play favorites," she said, but she admitted that she may contact a specific person about a job opening if she knows that person has a particular interest.

Doesn't that sound a bit like favoritism?

"Some people are in the office three or four times per day. And, sure, we become friendly with them," she said. "But there is no favoritism."

"If any student comes in and tells me he's interested in a specific field, I will contact him or her about such a job which comes to my attention." Diane noted that, because the job market is so tight, the students who "stay on top of the situation" usually get the jobs.

Diane has been in the Placement Office for 2 1/2 years. She has a degree in English (what else!) from UCLA. And she is half of the team of Gough and Friedman. Marilyn Friedman has been with us less than 2 months. She has her degree from UCSB, with a credential in elementary education. "That certainly helps on this job," she notes.

What about the curious appearance of names on the sign-up sheets before they were even posted. Diane pointed again to the students who are in the office every day. "They sometimes happen to be in the office when a new interviewer phones in, and they get on the list before it is posted." They could be made to wait until it is posted, couldn't they, and thus give everyone a fair chance? She agreed that that might be fairer.

There has been some criticism that the Office should be staffed by professional people. But Diane pointed out that no professional would work there. "The work is too mundane." A year and a half ago, an attorney hired to run the Placement Office quit after three months.

Diane told us that she is always open to suggentions. "If students have a complaint, I wish they'd come to me," she asserts.

Then, perhaps they too could become "Placement Office Groupies!"

## Up Against The Wall

**"The problem, as I see it, is how we can augment the involvement of students with each other and increase the fact and the sense of meaningful participation in the Law School activities." Dean Schwartz 1 Cross Examiner 2 (1973).**

The first thing anyone noticed upon entering the Placement Office earlier this quarter was the sudden appearance of The Barricade, a four-foot-high wall running the length of the office. What is the function of the Barricade? Why, clearly The Barricade exists to separate student from staff — reducing "meaningful participation."

Diane Gough, Placement Officer, said that there had been a slight problem with students' being "all over the office," but noted that the former informality of the place was important.

Student reaction to The Barricade was quick, vocal and expected: they didn't like it. While the purpose of the wall, according to Associate Dean John Bauman, was to allow the Placement Office people to have some privacy, many students saw it in quite different terms: Gary Maeder viewed the Barricade as "insulation from the world", creating a "Law School monastery;" David Dizenfeld thought that "a barb-wire fence would be more effective." Other comments overheard in the Law School halls were:

Rich Staley: "This is incredible. We should have a mural with graffiti on it."

Alex Kozinski: "Drawing the line, huh?"

Carol Scott: "They're making this place worse than before."

Larry Borys: "I can't get the positive vibrations that I'm going to get a job anymore."

Anon: "Dean Schwartz probably thought this was a good idea because he couldn't see over it."

Calvin Lau: "We need some peanuts to feed the animals."

Andy Kurz: "What's with all this? Is this to keep the lower classes out?"

Mike Rubin: "You fenced us out. It had to come to this."

Bob Zwirb: "It restrains students. The Law School's new Berlin Wall."

Percy Anderson: "What is this? To separate the workers from the students. Marx wouldn't have approved."

Cliff Locks: "This is a complete contradiction. It stinks of hypocrisy."

Jules Kabat: "This office is too impersonal. What kind of drech is this?"

And even the appearance of the McDonald's calendar on the Barricade will not go far toward re-establishing the informal nature of the office. Still, it may be the start of a trend toward symbolically removing the wall by covering it up. Anybody have any leftover W.C. Fields posters?

## Rejection Letters

Rejection letters can be divided into categories, based on length. Often one can tell in advance, based on his/her experience with the personality of an interviewer, just what kind to expect. The "short and sweet" letters have the advantage to the recipient of getting it over with:

*Dear X:*

*Nice Try.*

*Sincerely*
*Firm Y*

Of course, there are signal words which can save the reader time. These words ("I'm sorry to tell you . . .", "We regret . . .", etc.) are often found at the beginning of a paragraph — frequently the second one:

*Dear X:*

*When we talked with you last November, we had 3 openings for law clerks. Our interviewing law partner, Mr. N., had some glowing things to say about you.*

*We regret to inform you that we now have 4 openings.*

*Sincerely,*
*Y*

HIDDEN REJECTION

When the law firm wants to be tricky, it omits the signal words, and buries the rejection so that one has to read the whole letter — often twice — to find out the story:

*Dear X:*

*You might recall talking with us 6 months ago concerning your possible association with our law firm. You'll be happy to hear your waiting is over.*

*Sincerely,*

The "Hidden Rejection" (also known as the "Come On/Put Down") is not limited to short and sweet letters. In fact, the longer the letter, the more frustrated the student:

*Dear friend:*

*The apparent enthusiasm and qualification of all the students with whom I met at the UCLA School of Law make it very difficult for us to determine which students we will not invite to continue the discussion with us regarding possible association. We are happy to inform you that you have been selected to be a part of this particular group.*

PUT-DOWN ENDING

A salt-in-the-wound tactic employed by some firms is to cryptically imply that the applicant reconsider his choice to be a lawyer. This put-down is usually found at the end of the letter:

*We wish you luck in your chosen profession.*

FORM LETTERS

Some areas of the law lend themselves to special-interest form rejection letters. Some examples:

*(J.A.G.)*
*Dear*

*The high command has determined that you would not pass muster. Thus, your application has been declared no longer operative.*

*Carry on.*

*(Draft Counseling)*
*Dear*

*After careful review, we have decided to classify your application IV-F.*

*However, we would be happy to consider your request for reclassification at a later date —*

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## Micronesia on twelve units a quarter

**The Cross Examiner hopes to acquaint the students with some of the opportunities in the quarter-away programs.**

**This article focuses on one student's experiences in the Micronesia program.**

Micronesia is west of Hawaii, lying between the equator and Japan. The total area of the Trust Territories' 2,000 islands is smaller than New Jersey.

Last April I began five months of clerking for the Chief Justice of the High Court. The High Court is Micronesia's supreme appellate court, and also a court of limited original jurisdiction. While the judges of the lower courts are either traditional native leaders or young Micronesians with no formal legal training, the High Court consists of three American judges. They sit separately in three of the six widely scattered district centers and make trips to the other three centers to hear cases. Decisions by one High Court judge can be appealed to the High Court sitting en banc.

The Chief Justice sits on the island of Saipan, the capital of Micronesia. It is also the home of the Congress of Micronesia and of the Attorney General; both agencies also employ UCLA law students participating in the quarter away program. My companions during the Spring quarter and summer were Jabe Konke, Rod Thatcher and Connie Ferris. Connie broke the sex barrier being the first woman law student sent to Micronesia. Although Women's lib has not really reached the Trust Territory, many aspects of Micronesian cultures are matriarchal.

Saipan is a fairly large island, fourteen miles long and four miles wide. A mountain ridge runs down the center of the island, so that one never really feels as if he's in a small place — there's always the other side of the mountain. The population is in the neighborhood of 15,000 natives and about 1,000 Americans, mostly government employees and their families.

The general impression of Saipan is greenness. Green and blue. There are a lot of dusty streets, but the background is always green and the sky and the sea are colors that a Southern Californian can only dream about. Coconut trees really do grow in front yards and along the beaches.

One side of the island is protected by a reef, sheltering about ten miles of sandy beach for good sunning and swimming. The other side is not protected, but it still has beautiful coral beaches and spectacular scenery.

The Trust Territory Government supplies UCLA students with a concrete house and a living allowance. The typical house is either solid concrete or a "temporary" plywood house built by the government many years ago when a typhoon devastated much of the area. Their design is rather interesting and some are quite nicely furnished. There are a few "regular" houses, and some made of corrugated steel. Since there is no cooling system other than fans, most houses have louvered windows that are always open. Dust from the unpaved streets is a constant, but acceptable, problem.

The necessity of learning to live with huge, flying cockroaches is an initial problem. Most Americans in Micronesia for any length of time have negotiated a deal whereby they can use the house during the day and the cockroaches are allowed free reign at night. My biggest shock was finding that I actually liked living with lizards climbing along the ceiling and making noises like crickets all night long. After a while I felt as though I were in an M.C. Escher print.

The Assignments

My companions at the Congress and the Attorney General's office worked very hard on matters of international law, civil service, legislative drafting and assorted other assignments. Jabe was sent to the island of Truk for a month to work with the local legislature. He lived with a Trukese family and grew very tired of eating taro, a local native staple. Rod was sent to Palau to help the District Attorney in a case involving murder aboard a foreign ship in Micronesian waters.

Although my job was clerking for a judge, I'm certain that it was an experience not duplicated by many clerkships in the U.S. Our cases

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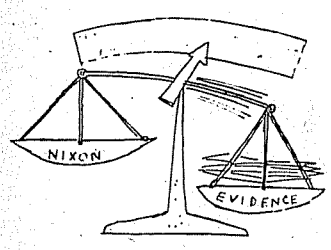



# Impeachment Update

*by Roger Dickinson*

Richard Nixon vowed, once again, in his recent State of the Union address that he would not leave office before his term has expired, but would do the job he was elected to do.

That decision, however, is no longer entirely in his hands; rather it will be the Congress which decides whether or not he should continue in office through the impeachment provision of the Constitution. Whatever the outcome, the events of the next several months are certain to be fascinating and momentous.

Congressman Jerry Waldie (D—Antioch), is sponsor of the primary impeachment resolution in the House of Representatives. He spoke at the law school on January 28, and enumerated a list of charges against the President including: 1) the firing of Archibald Cox; 2) attempted bribery of Matt Byrne, judge in the Ellsberg case; 3) the erasure and loss of Watergate tapes; 4) the offer of executive clemency and payoffs for the silence of witnesses involved in Watergate; 5) creation of an illegal investigatory unit (the Plumbers); and 6) concealment and falsification of records regarding American bombing in Cambodia. This list is certainly not exhaustive, for charges of such things as gross violations of campaign contribution laws and income tax evasion, among others, could be considered as well.

The work of the House Judiciary Committee, which is conducting the impeachment inquiry, will involve initial considerations of what constitutes an impeachable offense; the extent of its power to subpoena the President, his documents, and tapes; and its right to evidence accumulated by Special Prosecutor Leon Jaworski.

From all indications, here is what can be expected:

1) The standard of what constitutes an impeachable offense will probably fall somewhat short of requiring a criminally indictable offense.

2) The Committee will likely be granted wide, discretionary powers of subpoena.

3) A compromise can be expected between Mr. Jaworski and the Committee, and the Committee will probably receive access to most of the evidence Jaworski has collected.

4) Republican Judiciary Committee members will push to wind up the investigation before mid-April.

5) If the Committee splits along partisan lines, it is very possible that no Articles of Impeachment will be sent to the floor of the House because Committee Democrats want to avoid anything that appears to be a strictly partisan effort to "get the President." However, House members may be required to take a stand because Speaker Carl Albert (D—Okla.) has indicated that, in any event, the issue will be brought to the floor for a vote.

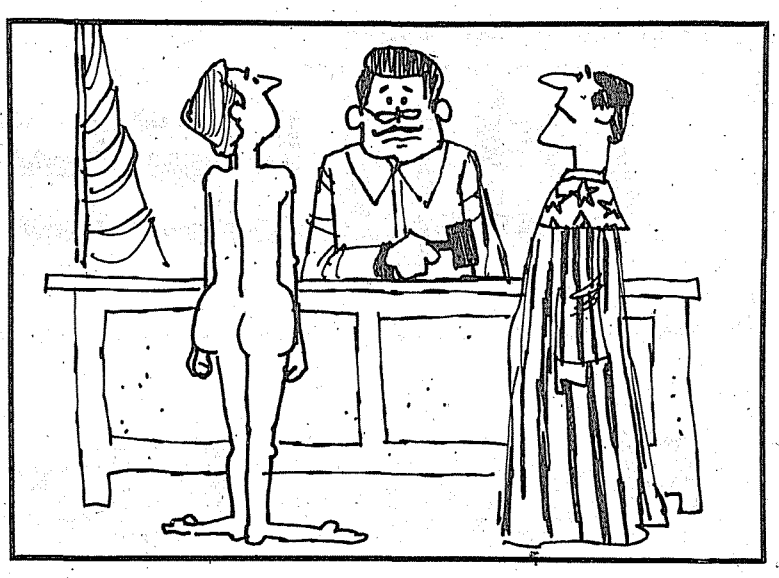
7) How likely are the chances that the House will impeach Mr. Nixon? A recent poll showed that only one out of eight Congressmen were ready to vote for impeachment, but, perhaps more significantly, a very large number remain undecided. This would seem to indicate that many members are approaching the question very cautiously, and reserving judgment until they see what evidence the Judiciary Committee uncovers. It should be remembered that impeachment is roughly comparable to a grand jury indictment in a criminal case, and should, therefore, require only that the members are, as Congressman Waldie put it, "reasonably sure" of the accuracy of the charges. However, it seems much more probable that Congressmen will vote according to whether or not they believe Richard Nixon is guilty.

8) Following the passage of the Article of Impeachment by the House, a full-fledged trial would take place with the Chief Justice presiding and the 100 members of the Senate sitting as judges. It seems highly improbable that such a trial would begin before July.

Perhaps the greatest single factor which will have an impact on the outcome is the intense pressure building in Washington for a settlement of this matter. Most Congressmen have returned from their Christmas recess after finding their constituents angry and upset over the energy crisis and the economy. Moreover, the people seem to want an end to the political uncertainty which hangs over the country. Republicans have become increasingly desirous of concluding the proceedings as the fall mid-term Congressional elections approach. Pressure on the President to voluntarily resign may become increasingly intense as Republicans reach the conclusion that Richard Nixon is an overwhelming campaign liability. Additional pressure will be generated as prestigious and powerful members of Congress call for resignation, as was done by Rep. Wilbur Mills (D—Ark.), Chairman of the House Ways and Means Committee, and Rep. Thomas O'Neill (D—Mass.), House Majority Leader.

Day by day the pressure will build, and, in the city which lies on the banks of the Potomac, the seemingly inexorable climax of the drama, filled with novel-like twists and turns, will play itself out. No one can be certain of the outcome. All we know now is that we will be witnessing history.





# Dress Code In Issue

Time magazine (Dec. 10, 1973) recently reported that Chief Justice Warren Burger is piqued about the attire of attorneys appearing before the Supreme Court. He has ordered his clerk to draw up a new dress code.

The Chief has been upset by women attorneys appearing in pantsuits and men wearing patterned shirts with clashing ties. Rather than retreat to the traditional attire of morning suits — cutaway jackets and striped trousers or skirts — a more inspired dress code might be developed: why not simply require that all attorneys wear robes?

The first step in this fashion revolution would be to require that the Justices and judges wear white robes in keeping with their function as the embodiment of justice and purity. No one else should be permitted to wear a white robe as this would be deemed prejudicial.

However, a certain measure of fashion freedom for members of the Bar would allow attorneys to dramatize their arguments. The lawyer arguing a welfare case, for example, could appear in a faded denim robe with an embroidered yoke. Government attorneys could wear red and white striped robes with blue yokes with stars on them. Prosecuting attorneys could wear black robes with hoods in death penalty cases. And dress for obscenity trials could focus attention directly on the underlying issue.

**— Rosemary Oda**

# Book Reviews Kennedy Era

**THE BEST AND THE BRIGHTEST**

**By David Halberstam**
**(available — indeed unavoidable — in paperback)**

David Halberstam was a New York Times reporter in Vietnam during the early '60's; he saw and reported a situation there very different from the official military version of events which Washington chose to believe. This was the substance of his first book, **The Making Of A Quagmire.** This present book, which covers the years 1961-1965, is an attempt to answer the question: "Who were those guys in Washington and how could they have misunderstood what was going on so badly when I (and other reporters) saw what was happening and tried so hard to tell them?"

History, however, has a way of changing black and white to gray. **The Best And The Brightest** puts Vietnam into its context in the post-war world and what emerges is the fact that decisions which in a narrower context seem misguided, if not perverse, were the almost unavoidable result of other policies and events. The fall of China, the arms race and the missile gap, the policy of containment in post-war Europe; these are the events that shaped U.S. policy in Southeast Asia. Particularly interesting is Halberstam's analysis (quoting James Reston) of how the disasterous Vienna meeting between Khruschev and Kennedy in the summer of 1961 may have been the "crucial factor" that forced Kennedy to send 18,000 troops to Vietnam.

**The Best And The Brightest** is invaluable, then, for putting Vietnam into historical context. But it is not a "history" book by any means. The bulk of the book is a series of personal portraits of the members of Kennedy's cabal: McGeorge Bundy, McNamara, Rusk, and of lesser luminaries including Robert Lovett, Hariman, Bowles, John McNaughton and W.W. Rostow. How much you like this book will depend on how you feel about portraits drawn, if not in acid, then at least heavily shaded with cynicism and scorn. Halberstam seems to have set out to destroy the shining white knights of the New Frontier and he digs away at the "Establishment"(Groton, the Lowells, Rhodes Scholarships) with glee. He sneers at McNamara's great books club and at Hickory Hill culture; at Bundy's pedigree and at Acheson's defense of Hiss ("who was of course a member of the Establishment in very good standing . . ."). What I missed in **The Best and The Brightest** was a respite from all this scorn. With the exception of John Paton Davies and perhaps of George Ball and John McNaughton, Halberstam seems to have found no one in his cast of characters that he could respect.

The irony, if not the tragedy of the story is that the men portrayed in this book really do seem to represent the best and brightest thinkers and doers that our society can produce. It is true that few of the men advising Kennedy had ever run for office themselves; (as Sam Rayburn said to LBJ who was enthusing about Bundy, Rusk et. al, "I'd feel a whole lot better about them if just one of them had run for sheriff once.") But unlike the young White House aides and officers of CREEP who have served Nixon so poorly, Kennedy's advisors were all men who had achieved some eminence in their own right, in education, or in business or in the State Department. Why then did they handle Vietnam so poorly? Why did no one (except perhaps Robert Kennedy) argue for complete American withdrawal in 1963? Halberstam suggests that one cause of the Vietnam tragedy was that Washington policy makers never heard (or refused to listen to) the opinions of the real Vietnam experts like Bill Trueheart and John Vann, just as John Paton Davies, Jack Service and the other China experts had been ignored before them. One hopes that today, when the Secretary of State at last wields real power, that this problem, at least, will be solved.

**L.T.E.**

## Another Woman's View

# Women's Position of Equality Will Destroy Men as Men

I am a third year woman law student, and because I do believe that we women are not anywhere near liberated as yet nor should we be, I am writing this article anonymously.

Women's lib is not a good thing. The movement is too emasculating, and I'm not referring to the vocal Bella Abzug aspect of the movement. I simply believe that our rise to a position of equality will destroy men as men.

Witness the growing incidence of male impotence. The new sexual freedom has been translated into female aggressiveness. The result is that we now have a new system of puritanism — on the part of the men, not the women. It is now the men who say, "Sorry, but I don't want to have sex with someone I don't care for." Hell, I'd rather play love's game and have the guy get it up than go through the humiliation of having him turn down my proposition or not be able to perform in bed. What it comes down to is that no matter how sympathetic to the movement a man is, he often cannot cope with the stark reality that women enjoy sex as much as men and are equally capable of "using" men as sex objects as men have traditionally used them. The role reversal freaks them out. And being a woman law student makes it worse.

An attractive lady law student friend of mine has actually been turned down by three men (all male law students) whom she propositioned under the most romantic of circumstances. They explained that they didn't want to be used for their bodies. Yet I doubt that they would deny that sex without an emotional involvement is pleasurable **per se**; they just didn't like **her** asking first.

We women law students are perhaps in the worst position of all with respect to women in the movement. We are suspect as lesbians, though much less so as each new incoming first year class is composed of a greater percentage of women. We are regarded with a great deal of distrust by many male law students, who can't understand how a "real" woman could have acquired a competitive instinct. If we're not lesbians, we must be on the make. To many of the men, we probably are rated lower than the groupies who hang around the law library. They'd rather have a stewardess or a dancer, and who can blame them?

Let's face it, there's nothing inherently feminine about being a woman lawyer, whereas the feminine image of a woman doctor, for example, is understandable because the medical profession is basically a nurturing, comforting, mothering profession.

We're being taught to argue with men and dismiss their reasoning as incompetent, irrelevant, and immaterial. We're being taught to attack not just legal principles but the male ego on the other side of the courtroom or the witness stand. The idea of a woman arguing with a man or cross-examining him conveys an image of Amazonian battle rather than an adversarial struggle for justice.

It takes real balls for an intelligent man to appreciate an intelligent woman without feeling threatened. Women are supposed to be emotional, not rational. I don't expect to be treated as equal to a man. And I'm willing to play down my intelligence if that will make my man happy.

Many law women complain about the 'hausfrau' syndrome. They resent the fact that a male law student can live in an incredible pigsty, but we women are expected to keep our places clean. I join in this resentment: I have been asked why I didn't vacuum my apartment by one such male slob. Married women law students have the additional burden of trying to justify to their curious male law student friends why their husbands made the bag lunch or did the laundry this week. Despite all this, I feel we should resign ourselves to this unfortunate situation. Let the men compete, get the ulcers and die young. It's better to keep house.

Would I give up my legal career because I don't believe in the feminist movement? Not a chance. It's because I recognize that men do and should rule, that I anticipate one day being kicked out of bed with no place to go, on the ground that I'd become old and undesirable. When that happens, baby, I want to be able to take care of myself financially at least.

# Less Power To The People

Although the concern for reducing the consumption of energy in the home is perhaps obviated by the recent postponement of sanctions against over-users, we felt that it would be helpful to get an exact count of the number of watts used in various activities around the house, to calculate how best to cut down. But after checking with the Sepulveda office of the DWP, we were less than sure of just how competently the city is dealing with what we believed to be a major problem.

We talked to a Mr. Schlank at the DWP office, to try to find out if there were some special way to read and use the wattage designations given on many household appliances. He proceeded to explain that the way to calculate energy use is to take the number of watts indicated on the appliance and divide it **into** 1000. This would yield the number of hours the appliance must be used to correspond to the time necessary to use the same amount of energy of a different size energy-user. For example, a 500-watt washing machine, divided into 1000 equals 2; thus, the machine must run for two hours to use the same amount of energy as, say, a 100-watt light bulb for 10 hours.

If this is confusing to you, so it was to me. I'm not yet sure whether his explanation was the result of intentional misleading or sheer ignorance; in either case, I left feeling less than confident about the whole business. Clearly, the "correct" explanation would have to be to divide 1000 **into** the number of watts that the appliance required, to figure out how many kilowatts of electricity it used. This number is a more valuable way to compare energy users.

Using my own figures, I have worked out some simple comparisons of energy use, so as to calculate how best to cut down on consumption: It is cheaper to listen to the stereo for 10 hours (350 watts) than to study with a 100-watt bulb for 4 hours (400 watts); further, watching TV for 2 3/4 hours was the same amount of wattage as listening to Beethoven's Ninth Symphony on the phonograph (450 watts). But, most importantly, watching TV for 3 hours requires the same amount of energy as studying for 5 hours! Since the energy consumption is equal, but the TV time requirement is less, it is clear that we could all save time and energy by watching a football game and going to bed early.

Thank you, Los Angeles, for giving me one more excuse!

Michael Siegel

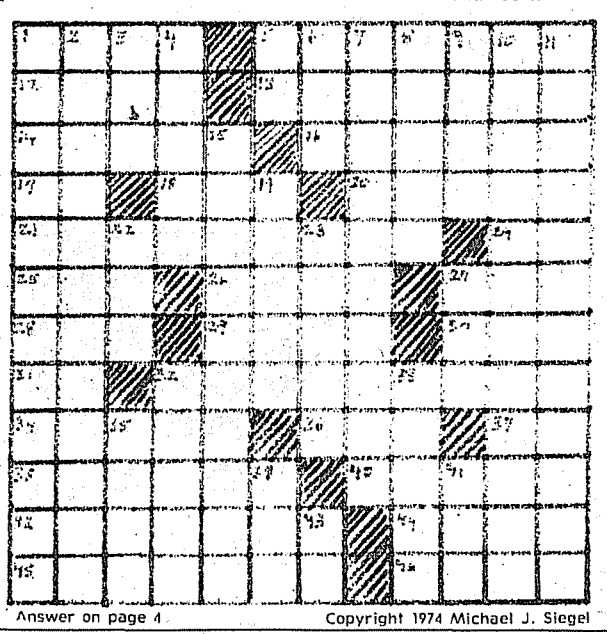
### PHRASES AND ANAGRAMS

**ACROSS**

1.5. Poor (Fr.)
12. Run
13. Self-help (Fr.)
14. Transportation Nurse (abbrev.)
16. To Clock Again (anag.)
17. See 24 Across
18. Gold-o (symbol)
20. A Day — — Races (2 words)
21. Expert (3 words)
24. See 17 Across
25. Male Name (abbrev.)
26. Bearded Mammal (anag.)
27. Female Name
28. Storage Container (anag.)
29. Condition
30. I don't give a — — — (abbrev.)
31. Pronoun (Fr.)
32. Reveal an End, like a Fish (3 words)
34. Type of Patch or Pipe (anag.)
36. Pronoun (anag.)
37. Half-stare
38. Recipients of Birth-Control Devices
40. Fortune Tellers
42. A Whip (vowelless)
44. Queen Nickname
45. — Seek: Schizzo Game (2 words)
46. Indication

**DOWN**

1. Hit Paydirt (3 words)
2. Aesthetics (3 words)
3. Winkin and Blinkin's Friend
4. Back-breaker
5. 'Chunky' Silver's First Two Initials
6. Half of an Artery
7. Regret a Tibetan Priest's initial
8. Hansl's Partner
9. Utter
10. No (2 words)
11. Frequently (3 words)
15. Fraternity for Pen Points (3 words)
19. Playful Sea Mammal
22. Possess
23. Contract
27. Formerly, Half of a Dancer
32. Well (Fem., Fr.)
33. Not David's
35. Appointed to Position of Priest (vowelless)
39. Answer (abbrev.)
41. Marriage Vow Second Thought (2 words)
43. Northern State (abbrev.)



Answer on page 4



# Landmark Case:

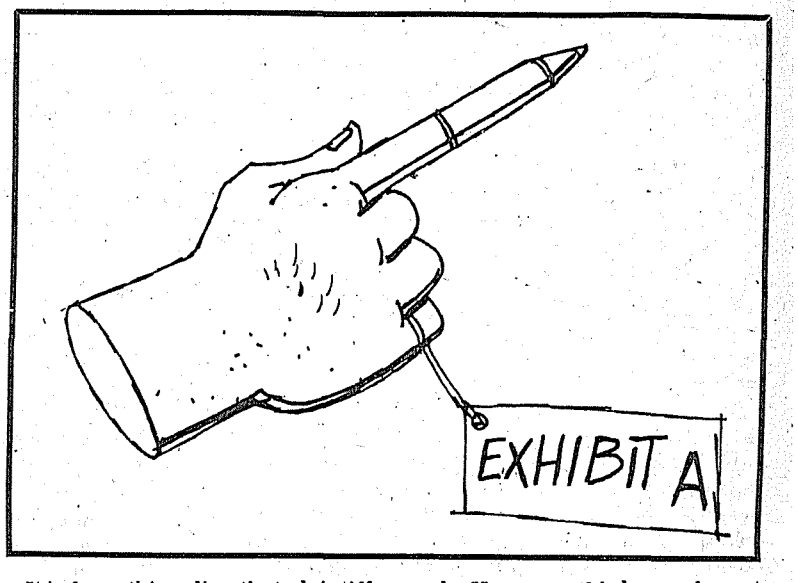
WHIPSNADE v. THRUMPELFARGER
54 Phillips 66

ASSUMPSIT, J. In the Superior Court of the County of Monte Cristo, plaintiff, a student at Earl and Edna's Country Law School Accredited Inc., brought suit against a physician, alleging negligence in the performance of an operation. Plaintiff here (plaintiff below, if that isn't a coincidence) sued defendant (amazingly, also defendant below) on a theory of plain, negligent malpractice of the ancient and complicated art of finger piercing. A history of the case, and the issues involved, (or the involved issues, as the case may be) is in order. To wit:

Bosporus M. Whipsnade, plaintiff, went to Dr. Hubert Horatio Thrumpelfarger to have his (plaintiff's) finger pierced by him (defendant), so he (plaintiff) could have implanted therein a subcutaneous Magic Marker Highlighter. Thus, plaintiff — when reading his law books — could underline important passages merely by running his finger over them.

Plaintiff specifically told Dr. Thrumpelfarger to implant a transparent yellow marking unit, instead of which an inferior darker color was used. As a result thereof, several very important books were ruined.

Plaintiff charged below that the doctor was negligent. The doctor admitted that he was negligent. The learned court below (such is the appellation we should properly use before condemning them) found that the defendant was indeed negligent, but that unlike the famous Case of the Hairy Palm, plaintiff's appearance and his market value as a budding lawyer were enhanced by the graceful, yet utilitarian addition of a leaded pinkie and awarded only nominal damages. (From examination of Exhibit A, reproduced herein, the reader can see for him or herself how invalid and erroneous such a decision was.)




It is from this ruling that plaintiff appeals. However, **this** learned court chooses not to reach the merits of the issue on appeal (do we ever?) but instead this day declares New Law . . . that defendant here (also defendant below for those of you who have forgotten, or are confused by such things) was **not** chargeable under the heretofore thought all-encompassing tort of negligence. This is a history-makin' court, dang nab it, and we hereby say the doctor was not negligent and that this is a case of Strict Liability.

As Robert Burns might have written, "Ay, tis bin yon rockie rowd, this jarney to strick liability." The aforesaid Strict Liability began as a doctrine to be used against those who encaged wild and dangerous animals when said animals escaped. (These actions being brought by incredibly timorous folk, fearful of having their flocks, flowers, and offspring ripped to shreds by neighbors uncouth enough to seek to domesticate the like of wild boars and stallions and fire-breathing dragons of old). This doctrine has of recent past been thought to apply to even more mundane and harmless objects such as poisoned food and drugs, cars that impale young maidens on their gearshifts, and power tools (green) that rip into flesh. The only principle applied consistently by the courts throughout these Landmark Cases is that sometimes they're strict and sometimes they're not!!

This court has wavered back and forth on the issue, as befits a concern for fairness bereft of sense. In an effort to show that our fair sense has now been restored to us, we now here hold that Strict Liability applies in the case at hand, thus marking out a new landmark in the law of torts. In order to make this look official we even have a few cases on which to base our decision.

In **Wastemoreland v. Pasteur**, 70 Honda 150, an Army officer sued a physician. The officer had gone to Dr. Pasteur (who later became famous for the invention of homogenization) in order to have his shoulders pierced, that he might wear his insignia in the shower, on the beach, and during romantic encounters. The insignia rusted in the holes and could not be removed. The court said that there had to be strict liability when there was danger of rust which could not have been foreseen by the officer. We quote:

"'The test is whether the danger was foreseeable. Once the accident has happened, any idiot can tell there was danger. But how to tell whether that danger was foreseeable is a sticky question (or a rusty one), for anything that happens could have been foreseen. We hereby declare that any accident for which the court believes the plaintiff should collect is foreseeable."

Such fictions, of course, are no longer used; we don't try to justify our decisions with principles of law — we simply talk around them. We declare that strict liability applies because the foreseeability of the accident in view of the inherent danger of the product cannot be offset by the failure to give a warning unless the median age of the class does not indicate the teacher was late.

We also cite **Bimbelflister v. Barfellonio**, 52 Mark IV, in which a student of psychology sued her teacher, who — at the student's request — pierced her ears with a paper punch. There, it was held that **res ipsa loquitur** ("one from many") applied only in cases too difficult to decide otherwise. Here, strict liability applied because the matter spoke for itself. Admittedly, there is a hole in that logic someplace, but it certainly is not overcompensation for the hole in Miss Bimbelflister's ear.

The case was reminiscent of the since overruled case of **Arctesty v. Certiffany**, 50 Fanner 50, in which a train conductor pierced a passenger's ear with his conductor's punch. That case, because it involved malice aforethought, properly belonged in the realm of Criminal Law 120.

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# CROSS EXAMINER

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STAFF

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**Contributions accepted at Information Desk and/or Room 2467D**


# Micronesia

**(Continued from Page 1)**

ranged from murders with political overtones to custom-based land cases involving simultaneous translation from English to Chamorro and vice versa. One of my favorite cases involved advising a local judge on a dispute over bets in a cock fight.

The High Court must be one of the few supreme courts in which opposing attorneys appear in open-necked sportshirts and wearing rubber sandals. Frequently, opposing counsel would corner the C.J.'s clerk and attempt to convince me of the merits of their case. This practice is not so much due to any lack of ethics on the part of the attorneys as it is a reflection of the pace of practicing law in a small community.

The People

European influence on religion and morals presents conflicts with the old ways. It is quite common for girls to have illegitimate children. An unwed mother is still accepted after one child: "anyone can make a mistake"; but after two children, her choice of a husband is limited to lower class Chamorros or Americans.

The traditional family structure on Saipan is such that a relative is always willing to adopt a child the mother cannot raise. In the other island groups there is less stigma attached to being an unwed mother, and extra-marital attachments are not hidden.

The Micronesians have been victimized both economically and politically ever since Magellan sailed through in the 16th Century. The Japanese began full-scale colonization after World War I. Japanese imported Koreans to do physical labor on plantations because the Saipanese are content with an ocean of fish and an abundance of naturally occurring food. In Palau, fish are exported and most houses have well-tended taro patches nearby. When supply boats were delayed for over six months, the people were able to do quite well without the outside world.

Such is not the case in Saipan where the Chamarro social attitude has been undermined by 30 years of close association with Americans. Americans don't fish. Americans who work for the government do hardly anything with their hands. As a result, we have fostered a work ethic in which the ultimate goal is to sit behind a desk in a white shirt or blouse. With a few exceptions, that is how every Saipanese makes a living. Families do have small farms on the "other" side of the island which they work on weekends, but during the week they work at "regular" jobs. Consequently, Saipan actually **imports** fish from the other Micronesian islands, and the grocery stores are stocked with Spam and corned beef.

Americans in Micronesia

Americans in Micronesia are very nice people, individually. They are also one of the most alcohol-oriented groups I have met, a trait, I suspect, picked up from the Micronesians.

Micronesia was given to the U.S. as a trust territory by the U.N. It is the only trusteeship handled by the Security Council and the only one which provides that no change can be made without the trust power's consent. For 15 years it was administered by the military and U.S. citizens were not allowed to enter without special permission. A C.I.A. training center used to train agents on Saipan.

Almost nothing has been done in the area of education or preparation for independence. Instead, populations of whole islands were moved and their homelands were used to test atom bombs (Eni Witok, Roi, Nimur). Due largely to the agitation of Peace Corps. lawyers (our own Dean Rappaport, for one) the U.S. government has finally begun making some effort to compensate the people for their lost homes and other damages, such as cancer of the thyroid caused by atomic fallout. Today, the Air Force still occupies Kwajelein Atoll, which was depopulated so that it could be used as a target for missiles fired from California. The Trust Territory is administered by the U.S. Department of the Interior and a semi-autonomous Government of the Trust Terrifory with an elected congress. Nevertheless, the Pentagon and the State Department still keep an amorphous hand in the workings.

The experience in Micronesia is unique. The islands are beautiful; the people are interesting and friendly; and while some of the government policies are appalling, others, such as the efforts of the court system, are quite commendable (if not always successful). It is definitely not the place for everyone. But if you have a desire to get away from school for a time and into something different, it might be worth your while to inquire into the quarter-away program in Micronesia.

**Tom Dunlap**

# Landmark

**(Continued from Page 3)**

But at this point, we are reminded of the maxim "per my et per tout" (later anglicized to "permeate putrid"). We don't know how it relates to this case, but we're still reminded of it.

After due consideration of the above, we can only hope that we are doing the right thing. We never know for sure. On the one hand ("per autre vie"), we have a doctor who presumably did his best to perform a difficult operation. After all, Dr. Thrumpelfarger is a highly skilled surgeon (a "cut-up," as he says with a perfectly straight face that is at once amusing and frightening). He has performed such difficult operations as the self-vasectomy and the compulsory figure. But on the other hand, we have a skilled law student (with several HPs) who someday will become a great barrister if we pay him off today.

**Order so given.**

MARZIPAN, J., dissenting. I dissent vehemently.

RAGOUT, J., concurring in part and dissenting in part. I really can't make up my mind.

**Courtesy of Legal Lampoon**

# Letters

**(Continued from Page 1)**

*say, 1979. Please allow 3 months for review to be completed.*

THE PERSONAL TOUCH

Although generally rejections are cold and impersonal, some firms do make an effort to include a personal note in an otherwise sterile form letter. It serves as evidence that somebody out there really does remember who we are:

*Dear Ms X:*

*Thank you for meeting with us yesterday to discuss your possible future with our firm.*

*However, the practical time limitations in our selection force us to decide, admittedly somewhat arbitrarily, not to pursue the matter with you. One of the problems with the on-campus interviewing process is that an interviewer really does not get an opportunity to get to know the applicant. The situation is unfortunate, but necessary.*

*We wish you luck in obtaining the association of your choice.*

*Sincerely,*

*Y*

*P.S. I'll see you at Mom's over the holidays.*

**Michael Siegel**