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Law and the Chicken: An Eggs-aggerated Curriculum Proposal

Roger I. Abrams*

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Abstract

For decades, legal educators have debated two important curricular issues: How do we introduce law students to the study of law?

KEYWORDS: power, society, verdicts

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I. INTRODUCTION

For decades, legal educators have debated two important curricular issues: How do we introduce law students to the study of law? And, how do we place the law in context, combining different intellectual disciplines in a single course? At the risk of ruffling the feathers of some legal academics high on the pecking order, I suggest we address both issues at one time—in effect, killing two birds with one stone.

The issue of the appropriate introductory course has been the subject of much scholarly work,¹ but not much creativity. Should the course focus on basic principles of the legal process? Should it focus on legal history?

* Chief Feather-Plucker, Nova University Shepard Broad Law Center. One afternoon in the mid-1960s, Dean Abrams studied at the Ag School Library at Cornell University, although admittedly, he received his B.A. from Arts & Sciences. He feathered his nest with a J.D. from Harvard Law School. Although many cases in this article refer to the consumption of chicken, Dean Abrams respects those who believe that eating our defeathered friends is a societal affectation.

1. See, e.g., Leslie E. Gerwin & Paul M. Shupack, *Karl Llewellyn's Legal Method Course: Elements of Law and its Teaching Materials*, 33 J. LEGAL EDUC. 64 (1983); Geoffrey C. Hazard, Jr., *Curriculum Structure and Faculty Structure*, 35 J. LEGAL EDUC. 326 (1985).

Should common law lead and statutory law follow, or vice versa? It seems that it has always been a question of which comes first, the chicken or the egg? I opt for the chicken.

The second curricular issue leads to the same conclusion. We know it has become fashionable in legal education to combine the study of law with the sibling disciplines of economics or social science.² I submit that focus is too narrow. Every curriculum would benefit from a course in law and animal husbandry.³

I humbly suggest as our introductory, interdisciplinary course, "Law and the Chicken." This course would introduce students to the broad variety of juicy legal and social issues which they will face as lawyers, while keeping them abreast of the latest court decisions.⁴ "Law and the Chicken" is a particularly appropriate subject for this calorie-conscious time.⁵ As we shall see, the chicken, our subject, has been plucked throughout American legal history. Individual faculty assigned to teach "Law and the Chicken" could wing it on their own, but I would suggest the following format.⁶

II. THE ALLOCATION OF POWER IN SOCIETY

The most famous chicken case, the case of the sick chicken, is an appropriate place to start. In *A.L.A. Schechter Poultry Corp. v. United States*,⁷ the Supreme Court addressed the constitutionality of Congress' broad delegation of power to the New Deal's National Recovery Administra-

2. See, e.g., A. MITCHELL POLINSKY, AN INTRODUCTION TO LAW AND ECONOMICS (1983); John Monahan & Laurens Walker, *Teaching Social Science in Law: An Alternative to "Law and Society,"* 35 J. LEGAL EDUC. 478 (1985).

3. Of course, this might be offered as a joint course with the agricultural school, if your university has one.

4. Chickens are also newsworthy animals. See, e.g., *Poultry Zapping Approved*, FORT LAUDERDALE SUN-SENTINEL, Sept. 19, 1992, at A11; *Chicken Plant Owner Pleads Guilty in Deaths*, FORT LAUDERDALE SUN-SENTINEL, Sept. 15, 1992, at A3; Anne Moncreiff Arrarte, *KFC Tests a Roast-Chicken Recipe of its Own*, MIAMI HERALD, Oct. 8, 1992, at C3; Claire Mitchel, *Advice for Clinton: Chicken is Good for What Ails Us*, MIAMI HERALD, Dec. 6, 1992, at BR10.

5. On average, chicken contains approximately 38 calories per ounce, while roast beef contains approximately 55 calories per ounce. THE 1992 WORLD ALMANAC AND BOOK OF FACTS 254 (Mark S. Hoffman ed., 1991).

6. For those who wish to pursue the topic further, a sequel to this article will contain a bibliography with other choice selections that might be made from Column A (hot and spicy chicken) or Column B (sweet and sour chicken).

7. 295 U.S. 495 (1935).

tion to regulate competition in industry across America's depressed economy. *Schechter Poultry* involved the regulation of wholesale chicken suppliers. The Supreme Court reversed the conviction of Schechter Poultry for violating wage and hour provisions enacted by the state of New York pursuant to the National Industrial Recovery Act. Its decision caused great public squabble, sending the President's New Deal programs into a tailspin. While the Supreme Court acknowledged Congress' broad authority to regulate interstate commerce, the Act was unconstitutional as applied to Schechter since Schechter's activities were not within the "current" or "stream" of commerce.⁸

Schechter Poultry essentially involved the issue of law-making power within our federal government. Who does the governing around here—Congress or some bureaucrat? The Court says that Congress must direct the law's development. If the federal government is going to lay an egg, Congress will do it—and often does. In the process of ruling on the delegation doctrine, the Court turned the N.R.A.'s blue eagle into chicken liver. The case is of great symbolic and historic import, even if it has not stemmed feather-brained ideas of federal administrative officials. It will certainly generate some interesting discussions about power in a democratic society.

III. OUR BASIC CHARTER—THE CONSTITUTION

This land is your land, this land is my land, but when the U.S. Government takes my land, the just compensation clause of the Fifth Amendment says it must pay me. First-year law students should learn further about how the Constitution controls the conduct of the Government. *United States v. Causby*⁹ is a good example.

In *Causby*, the Government leased part of the Greensboro, North Carolina airport adjacent to plaintiff's chicken farm. The bomber glide path took them sixty-three feet above the chicken coops. Needless to say, the chickens were not happy about this and flew into the walls in fright. (Wouldn't you?)

The Government claimed the Civil Aeronautics Act of 1938 placed this airspace within the public domain, but Justice Douglas, unhappy about the

8. *Id.* at 543. One wonders if shipments of ducks, geese or other water fowl would have been considered in the "stream."



"Well, I laid four Wednesday, three yesterday, and two more today ... of course, George keeps saying we shouldn't count them until they hatch."

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deaths of six to ten chickens a day,¹⁰ said these low flights were a "direct and immediate interference with the enjoyment and use of the land,"¹¹ not to mention a terrible annoyance to the chickens. The Government's servitude upon plaintiff's land required just compensation.

The First Amendment to the Constitution protects freedom of religious beliefs, but not all religion practices, especially those that involve harm to chickens. In *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*,¹² the federal district court upheld a city ordinance that prohibited animal sacrifice. Although pigeons, doves, ducks, guinea fowl, goats, sheep and turtles were part of the rituals, chickens came in for special judicial scrutiny. The Court explains: "The stress and fear experienced by chickens is particularly dangerous because the chickens' immune systems become affected and this leads to the increased growth of bacteria, salmonella especially, in those chickens' systems."¹³ Chickens are also tough to kill. They have four carotid arteries instead of the normal two: "Those arteries are rubbery and slide, and this increases the possibility of one of the arteries being missed."¹⁴ All of this means that sacrificing a chicken is a terrible thing to do and can be prohibited by a municipality even if it is the core ritual of a religion practiced by (the court estimated) 50,000 to 60,000 people in South Florida.¹⁵

IV. PRIVATE LAW ISSUES: TORTS AND CONTRACTS

In a world filled with ubiquitous chicken bones,¹⁶ it is a challenge to select the perfect chicken decision to demonstrate the tort system of compensation for wrongful, injury-producing conduct. *Mexacali Rose v.*

10. *Id.* at 259.

11. *Id.* at 266-67.

12. 723 F. Supp. 1467 (S.D. Fla. 1989), *aff'd*, 936 F.2d 586 (11th Cir. 1991), *cert. granted*, 112 S. Ct. 1472 (1992).

13. *Id.* at 1473. The stress is the result of overcrowding with non-chickens and smelling the body secretions of killed animals. (Do chickens have noses?).

14. *Id.*

15. The United States Supreme Court granted certiorari on this issue and addressed the First Amendment question during the 1992-93 term. There may be further focus on chicken in the high court's opinion, and we may want to substitute its supreme judgment for the trial court decision in our course materials.

16. See, e.g., *Mott's Inc. v. Coco's Family Restaurant*, 762 P.2d 637 (Ariz. Ct. App. 1988) (chicken bone in chicken salad sandwich); *Stallings v. Ratliff*, 356 S.E.2d 414 (S.C. Ct. App. 1987) (chicken bone lodged in throat required surgery); *Traylor v. Goulding*, 497 S.W.2d 944 (Tex. 1973) (doctor failed to discover swallowed chicken bone).

Superior Court,¹⁷ the California Supreme Court's recent decision, has special appeal, especially for those increasing number of Americans who have developed a taste for the chicken enchilada. Imagine plaintiff Jack A. Clark's surprise when his gustatory adventure contained a one-inch chicken bone!

Culinary experts know that some dishes require bones and shells for flavor and authenticity. Should a restaurateur be held liable when his porterhouse steak comes with a bone that chips the plaintiff's tooth? Should fish chowder be made without fishbones? Courts had developed the distinction between substances *natural* to certain types of food—chicken do have bones, otherwise they would cluck out of a pile of flesh and skin—and *foreign* substances—for example, a chicken enchilada with a one-inch piece of aluminum siding, normally not the outer coating of our feathered friends. Under this analysis, plaintiff Clark would lose his case. Cutting right to the marrow, however, the California Supreme Court rejects the natural-foreign distinction and substitutes a tort rule based on the reasonable expectations of the chicken consumer. We expect bones in fried chicken, not enchiladas.¹⁸

Contract law has many chicken cases from which to chose.¹⁹ One

17. 822 P.2d 1292 (1992).

18. There is a full hen house of chicken tort cases. One interesting case is *Adams v. Morris*, 584 S.W.2d 712 (Tex. Ct. App. 1979). The pedestrian plaintiff was injured when the passenger defendant spilled his soda while eating fried chicken, and directed the driver to divert his attention from the road to wipe off his seat. A close examination of the facts suggests that a marijuana joint shared by the driver and his passenger might have been the real culprit and not the chicken.

A wonderful libel suit worthy of mention in our materials is *Velle Transcendental Research Ass'n v. Sanders*, 518 F. Supp. 512 (C.D. Cal. 1981). The defendant author wrote in *THE FAMILY—THE STORY OF CHARLES MANSON'S DUNE BUGGY ATTACK BATTALION* that the plaintiff's property in Los Angeles was "a paradise pad for sex-magic chicken snuffers." *Id.* at 514. The trial court held the plaintiffs were public figures and, in the absence of malice, no action would lie. The court does not explain how one "snuffs" a chicken or how the sex-magic operates.

19. See, e.g., *Lund v. Village of Princeton*, 85 N.W.2d 197, 200 (Minn. 1957) (the Minnesota Supreme Court upheld a breach of implied contract claim by the chicken hatchery, based on the electricity supplier's failure to furnish "reasonable electrical power"); *Tyson Foods, Inc., v. Ammons*, 331 S.E.2d 208, 210 (N.C. Ct. App. 1985) (a chicken seller's claim that the officers and shareholders were liable on an alleged guaranty was denied because of the statute of frauds).

Analogous creditor rights cases are available, if time allows. In one particularly spicy case, the Connecticut Supreme Court described the creditor in *Ravitch v. Stollman Poultry Farms, Inc.*, 328 A.2d 711, 714 (Conn. 1973) as a "seasoned poultryman." (Incidentally, one of the Connecticut Supreme Court justices who took part in this chicken farm decision was

superb example is *Frigalimint Importing Co. v. B.N.S. International Sales Corp.*²⁰ Circuit Judge Henry Friendly, sitting in the trial court, posed the issue: "[W]hat is chicken?"²¹ The plaintiff sued when the defendant supplied both young and tender "broilers" and old and unsuitable "stewing chicken" or "fowl." The contract said "US Fresh Frozen Chicken, Grade A, Government Inspected, Eviscerated" without further specification. Judge Friendly found the word "chicken" ambiguous. The parties offered expert testimony about trade usage that pointed towards the need to specify what kind of chicken was intended.²² The federal government classifications, referenced in the parties' contract, divides chicken into six different categories.²³ Plaintiff failed to meet its burden of showing that something other than generic "chicken" was the bargained for commodity.²⁴

Another contract case involves the costumed chicken with the most famous public personality, the San Diego Chicken.²⁵ Radio station KGB sued Ted Giannoulas, the man inside the chicken suit, claiming its former employee breached his employment contract promise not to act as a mascot for any other radio station, by performing his antics as "a chicken red in color, with brown face, yellow beak, yellow webbed feet, blue eyelids, blue vest with the letters 'KGB,' and a red comb on the top of his head."²⁶ One minor problem, of course, was that the Chicken did not perform for any

MacDonald.).

20. 190 F. Supp. 116 (S.D.N.Y. 1960).

21. *Id.* at 117.

22. One of the defendant's witnesses testified that "chicken is everything except a goose, a duck, and a turkey." *Id.* at 119. Perhaps buffalo are chicken? Is that why restaurants now sell buffalo wings?

23. In case you intend to purchase wholesale chicken, please note the categories in 7 C.F.R. § 70.201 (1946):

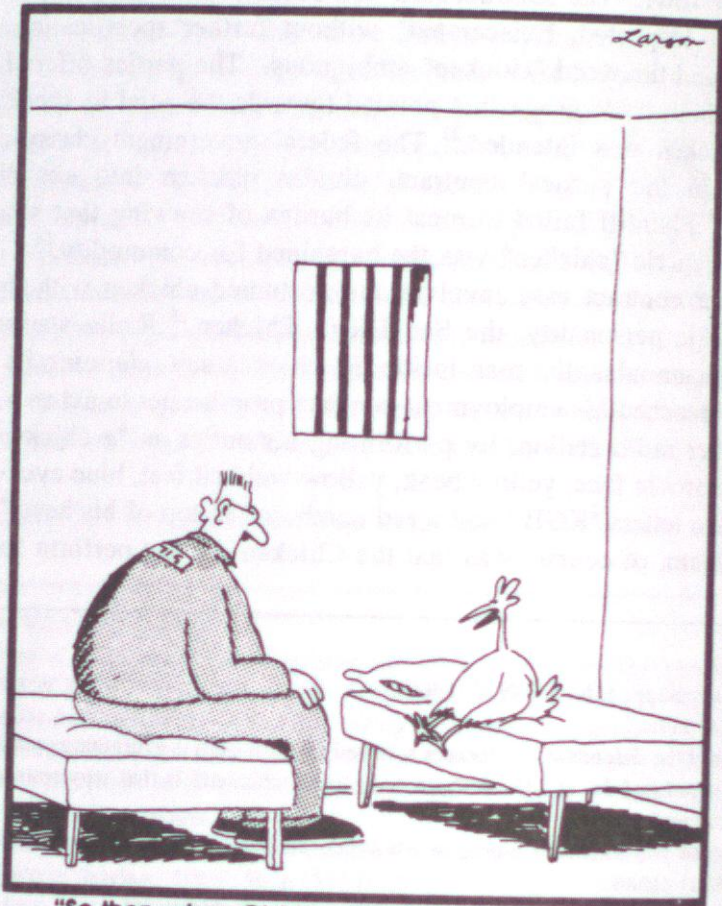
Chickens. The following are the various classes of chickens:

- (a) Broiler or fryer . . .
- (b) Roaster . . .
- (c) Capon . . .
- (d) Stag . . .
- (e) Hen or stewing chicken or fowl . . .
- (f) Cock or old rooster . . .

24. *Frigalimint*, 190 F. Supp. at 121. Bad chicken, this time in the form of chicken nuggets, was the main course in an unreported admiralty law case, *Kentucky Fried Chicken Int'l Corp. v. S/S Ponce*, No. CIV. A. 87-2164 1988 WL 35057 (E.D. La. Apr. 13, 1988). The defective freezers aboard ship caused the cargo of 1260 cases of ready-to-cook golden morsels of chicken to defrost. Obviously, the ship was "unseaworthy."

25. *KGB, Inc., v. Giannoulas*, 164 Cal. Rptr. 571 (Cal. Ct. App. 1980).

26. *Id.* at 576 n.2. This description was included in the injunction obtained by the radio and vacated on appeal.



"So then, when Old MacDonald turned his back,
I took that ax, and with a whack whack here
and a whack whack there, I finished him off."

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other radio station, but rather took his act to the basepaths for the San Diego franchise of the National League.²⁷ The Chicken prevailed.²⁸

V. THE INTEREST OF SOCIETY IN GENERAL: THE CRIMINAL LAW

There is one very disgusting chicken case that we should avoid placing in our materials. In *United States v. Sanchez*,²⁹ an Army private was charged with, among other things, "one bestial act with a chicken . . ." The allegation was that Sanchez, on duty in Germany, on or about August 23, 1957, committed sodomy on a chicken "to gratify his lust."³⁰ This crime, so fowl, was held to discredit the Government.³¹

27. *Id.* at 579. The station claimed in the alternative that the Chicken was stealing the rights it held in chicken costumes or chicken suits. The appellate court was unimpressed, recalling that other performers have employed feathered personae, most notably Charlie Chaplin in his "chicken-suited appearance" in the classic film *Gold Rush*. *Id.* at 582. "In fact, the concept of parading as a mascot in an animal costume would seem to be in the public domain," the court concludes. *Id.* at 583. The court refers to Yogi Bear, Smokey the Bear, Winnie the Pooh, and the mascot of the University of California. These bear facts prove that the Ted Giannoulas chicken and the KGB chicken can "coexist." *Id.* The court missed a perfect opportunity to peel the skin off the radio station's claim by reminding it that its call letters—KGB—are the ultimate pass off, trading on the public's recognition of the initials of the vile Soviet secret police.

28. If we need a property case in our course, I would suggest *First Am. Nat'l Bank v. Chicken Sys. of Am., Inc.*, 510 S.W.2d 906 (Tenn. 1974). Chicken System leased a tract of land, then assigned the lease without the lessor's permission in violation of the lease agreement. When the lessor sued the assignee for unpaid rent, taxes, insurance and other expenses, the assignee raised the invalid assignment by way of defense. The Supreme Court of Tennessee ruled that the assignment was voidable, but not void, and enforced the obligations as covenants of the lease that run with the land. *See also* *Nessralla v. Peck*, 532 N.E.2d 685 (Mass. 1989) (chicken farmer sought specific performance of oral agreement to sell land; "Peck" acted as "straw" man, apparently chicken in the straw).

29. 11 C.M.A. 216 (1960).

30. *Id.*

31. The materials should footnote the Supreme Court's decision in *City of Los Angeles v. Lyons*, 461 U.S. 95 (1983), a chicken case that may live in infamy. The Supreme Court refused to enjoin Los Angeles police officers from using the brutal chokehold that caused death to numerous persons. In dissent, Justice Marshall explains:

An LAPD officer described the reaction of a person to being choked as "do[ing] the chicken," in reference apparently to the reactions of a chicken when its neck is wrung. "The victim experiences extreme pain. His face turns blue as he is deprived on oxygen, he goes into spasmodic convulsions, his eyes roll back, his body wriggles, his feet kick up and down, and his arms move about wildly."

Id. at 117-18. The Court majority felt that the available damage action was a sufficient deterrent. First year students should learn that sometimes when the Court stays its hand,

One alternative criminal case is *United States v. Duncan*.³² The Fifth Circuit affirmed defendant's conviction for having an illegal still hidden in a chicken house. The court ruled there had been no violation of the defendant's Fourth Amendment rights since a valid search warrant had been issued by a neutral magistrate who actually accompanied officers conducting the search.³³ Arguably, defendant's goose may not have been cooked had he merely stored Wild Turkey in the henhouse.

VI. THE PROCESS: EVIDENCE AND SPECIAL VERDICTS

Our course should introduce students to the processes of the law. Litigators must know the importance of expert testimony. For example, Ralston Purina Company's attorneys found two poultry nutritionists (only one of whom was on the company's payroll) to rebut Joe Hobson's theories on how the feed producer's failure to supply promised feed resulted in the death of 18,000 starved chickens.³⁴ In *Ralston Purina*, Hobson claimed that his feedless feathered flock 1) were incited to cannibalism by pecking, 2) smothered each other by "piling" to keep warm when starvation lowered their body temperatures, and 3) trampled each other in the stampede when food finally arrived. The jury bought Hobson's choices, but the trial court entered judgment for Purina, notwithstanding the verdict, based on the experts' testimony. They had explained that chicken pecking—a significant problem than can only be solved by debeaking the birds—is not caused by starvation and that piling only occurs among young birds, not Hobson's more mature flock. The experts testified that stampeding was common, but could not have caused the high incidence of mortality. The Fifth Circuit affirmed, reasoning: "What Hobson says his chickens did, chickens do not do."³⁵

Cases that might introduce students to evidentiary issues of relevance and admissibility are also important. For example, in a criminal action for failure to pay income taxes, evidence of income from bookmaking and the sale of chickens provided by the defendant's former mistress was held admissible in *United States v. Martin*,³⁶ as long as the government did not

lawless elements in the police take control. Had the Court acted to clean out police brutality in 1983, Rodney King might not have been beaten in 1991.

32. 420 F.2d 328 (5th Cir. 1970).

33. *Id.* at 331.

34. *Ralston Purina Co. v. Hobson*, 554 F.2d 725, 728 (5th Cir. 1977).

35. *Id.* at 729.

36. 773 F.2d 579 (4th Cir. 1985).

make reference to the chickens as stolen from Martin's employer, Holly Poultry. Furthermore, the defendant also ran a bookmaking operation and said he thought he only had to report income from a wager at 300 to 1 odds or higher.³⁷ A chicken brain? He had no particular excuse for not reporting his income from the sale of chickens. Perhaps he thought you didn't have to report income on stolen goods?

Students might learn about juries and special verdicts by analyzing *Burger King Corp. v. Pilgrim's Pride Corp.*³⁸ Burger King sued Pilgrim's Pride for referring to its chicken product as "chicken tenders," the plaintiff's non-generic "coined term." Responding to seven questions, the jury fined the defendant for using a term likely to cause consumer confusion. The trial court denied the defendant's motion for judgment notwithstanding the verdicts, explaining that the court must review all the evidence in the light most favorable to the party that prevailed before the jury.

VII. THE REGULATORY STATE: ANTITRUST, LABOR LAW, AND TAXATION

First year students should learn that for every statute Congress passes, it enacts another statute which exempts certain parties from the operation of the first statute. Congress then leaves to the underfunded, overworked courts the job of attempting to determine the coverage of the legislation. This common issue of statutory interpretation frequently involves chickens, and turns on whether a person is a farmer when he or she has some role in the chicken trade.

National Broiler Marketing Ass'n v. United States,³⁹ is a good example of chicken antitrust. The Capper-Volstead Act exempted farmers from the Sherman Act's prohibition of conspiracies in restraint of trade, but who is a "farmer?" What about those collusive folks who process or pack broilers?

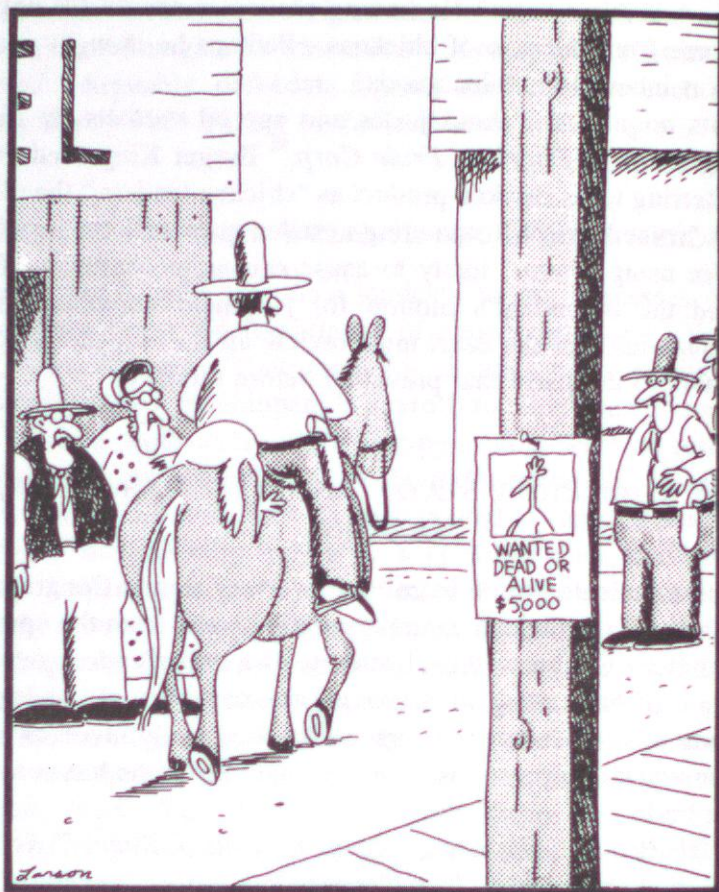
Justice Blackmun—now no spring chicken, but as a Minnesotan, very familiar with chickens of all kinds⁴⁰—tells us about the "distinct stages" of production, from breeding to eggs, to catching, cooping and hauling. The

37. *Id.* at 580.

38. 705 F. Supp. 1522 (S.D. Fla. 1988).

39. 436 U.S. 816 (1978).

40. As of December 1, 1991, the state of Minnesota reported 14,400,000 "chickens on hand," ranking the state tenth in the nation. Telephone Interview with Greg Bussler, Minnesota Agricultural Statistics Service (Oct. 2, 1992).



The townsfolk all stopped and stared;
they didn't know the tall stranger who
rode calmly through their midst, but they
did know the reign of terror had ended.

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United States stipulated that a broiler chicken was an agricultural product.⁴¹ In a wonderful footnote, the Court sent us to old and new studies of the chicken broiler industry.⁴²

The Court held, not surprisingly, but over spirited squawking in dissent by Justice White, that in order to be entitled to the statutory exemption, all members of the cooperative association must be true farmers. Interestingly, arguing for the petitioner cooperative against free competition and for collusion, was the then University of Chicago maven of free competition, Law Professor Richard A. Posner.⁴³

Justice Stevens faces a similar issue under the National Labor Relations Act in *Bayside Enters. v. NLRB*.⁴⁴ The owners of a poultry business employed truck drivers to deliver feed to farmers who raised the petitioner's chickens. Demonstrating the appropriate deference to the expert agency, the Supreme Court ruled that the drivers are not "employees" within the coverage of the NLRA, and thus are exempt from statutory protection of the right to organize.⁴⁵

41. Did it think, perhaps, that it was manufactured product?

42. *National Broiler Mktg. Ass'n*, 436 U.S. at 821 n.9.

43. There is a basket full of chicken antitrust cases from which to choose. For example, the Ninth Circuit in *Siegel v. Chicken Delight*, 448 F.2d 43 (9th Cir.), *cert. denied*, 405 U.S. 955 (1971), censured the defendant's tying arrangement which required franchisees to purchase a specified number of cookers, fryers, and packaging supplies from the defendant, as an illegal restraint of trade.

One chicken (and fish) trademark case worthy of note is *Zatarains, Inc. v. Oak Grove Smokehouse, Inc.*, 698 F.2d 786, 788 (5th Cir. 1983), where the plaintiff appealed the lower court's ruling that an alleged infringer had a "fair use" defense. Judge Goldberg explained the facts under the heading: "The Tale of the Town Frier." *Id.* The plaintiff marketed a "culinary concoction," a coating mix for fish called "Fish-Fri" and one for chicken called "Chick-Fri." *Id.* at 796. The defendant marketed "fish fry" and "chicken fry." *Id.* at 788. Affirming the lower court judgment, Judge Goldberg stated that the plaintiff's trademark claim "lays an egg." *Id.* at 797. "And so our tale of fish and fowl draws to a close. We need not tarry long, for our taster's choice yields but one result, and we have other fish to fry." *Zatarains, Inc.*, 698 F.2d at 798.

44. 429 U.S. 298 (1977). The Court granted certiorari to resolve a split in the circuits. In the case before the Court, the First Circuit held the chicken feed truck drivers not to be exempt from the National Labor Relations Act. *See NLRB v. Bayside Enters.*, 527 F.2d 436, 438-39 (1st Cir. 1975). The Fifth Circuit, in a case involving truck drivers who haul the chickens to market found the employees exempt. *See NLRB v. Strain Poultry, Inc.*, 405 F.2d 1025, 1033 (5th Cir. 1969). In this decision, Judge Tuttle explained in great detail the operation of the chicken industry. While the case is now bad law, it provides an excellent discussion of animal husbandry.

45. The opinion includes two noteworthy chicken case string cite footnotes. *Bayside Enters.*, 429 U.S. at 302 n.9 & 303 n.12. Analogous agricultural exemption issues arise in

Taxation cases also involve reading Congressional chicken scratching, and chicken farmers have not escaped the scrutiny of the Internal Revenue Service.⁴⁶ In *Grogan v. United States*,⁴⁷ the Fifth Circuit interpreted the 1954 Code provision allowing exclusion of certain pre-1954 inventories and receivables from taxation.⁴⁸ Under the court's reading of the statute, Eldo Grogan, a Georgia poultry farmer, benefitted from Congress' effort to prevent both inequity and windfalls.⁴⁹ Judge Goldberg, obviously moved by the nature of Grogan's business, concluded:

Congress knew that there were golden eggs that it would neither count nor recoup, [footnote omitted] but in order to pluck the feathers of varying hues from all future pullets with equity when accounting changes were made, either voluntarily or forced, Congress decided that a few Grogans would be able to feather their nests. A temporary disequilibrium was to be permitted in order to establish a future certainty and tranquility when the winds of accounting changes swept the tax atmosphere.⁵⁰

VIII. CONCLUSION

In designing the appropriate introductory offering, there is no reason why legal educators must follow the dullest course. Even if this curricular idea doesn't fly—and remember chickens don't fly—it is worth the effort. No one should ever accuse a legal academic of being chicken.

chicken context under the Federal Unemployment Compensation provisions of the tax code. See, e.g., *Drummonds Poultry Transp. Serv. v. Wheeler*, 178 F. Supp. 12, 15 (S.D. Me. 1959) (holding "poultry catchers" who harvest poultry are agricultural laborers). In an interesting workers' compensation case, *Gleason v. Geary*, the Minnesota Supreme Court held that a "chicken picker," who also worked for an independent construction contractor on the chicken farm, could sue for tort damages against his secondary employer while receiving workers' compensation benefits from the chicken farm. 8 N.W.2d 808, 813 (1943).

46. See, e.g., *Starr Farms, Inc. v. United States*, 447 F. Supp. 580, 583 (W.D. Ark. 1977) (holding that construction of environmentally controlled chicken coops were "buildings" within the meaning of Treasury regulations and thus ineligible for investment tax credit).

47. 475 F.2d 15 (5th Cir. 1973).

48. *Id.*

49. *Id.*

50. *Id.* at 21.