2013

Not Wythe Standing (Vol. 5, Issue 2)

Repository Citation
https://scholarship.law.wm.edu/newspapers/196

Copyright c 2013 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
https://scholarship.law.wm.edu/newspapers
SPOOKS, SCARES, SCALIA

Justices ditch black robes to celebrate Halloween in Supreme style

Autumn has fallen upon Washington, D.C., and the Supreme Court’s new term has begun. More importantly to beltway insiders, the annual SCOTUS Halloween party was held recently, and in their unusual fashion the justices were the belles of the ball.

“We should be unsurprised,” wrote one local commentator, “that the greatest legal minds of this generation—imaginative enough to have generated the logic of Bush v. Gore—turn out in such splendid costumes every year. And yet, they never cease to amaze.”

A cape-wearing Chief Justice Roberts opened the festivities with a charming speech in which he promised plenty of “civil rights a-boo-sea” and “mis-scare-iages of justice” for the upcoming term.

“Our internal professional courtesy may just decompose,” he teased, “ah ah ahh.”

Roberts was resplendent in traditional Transylvanian regalia, although pictures of him at the podium mysteriously failed to capture his likeness. Following his opening remarks, the Chief Justice transmogrified into a bat and took to the eves, where he hung for the remainder of the evening, descending only occasionally to drain stragglers of their vital fluids.

Roberts’s colleague Clarence Thomas is known for his devotion to Halloween festivities. In a recent interview with The Daily Stoic, he confirmed devoting between 85 and 90 percent of his time on the bench “hearing” oral arguments to the solemn contemplation of his next costume.

Justice Thomas surpassed himself this year, appearing as an elaborately designed, carefully articulated centaur. While his costume was unrivaled, however, Thomas’s preparation evidently did not stop there. Guests afforded him a deferent berth on the dance floor, where he proudly demonstrated the “musical rite of his native people,” a two-hour, beautifully choreographed dance featuring sophisticated prop use.

Thomas’s toast was also a highlight of the evening. The justice expounded mournfully on Centaurian history, including their “tragic oppression at the hands of the despotic Troll King” and “shameful flight from the hinterland where once they had made their proud home.” Thomas also

See SCOTUS, page 6
Influences

Our staff’s current cultural fixations

Vampire’s Kiss (1988)

Nicolas Cage’s career is perhaps the single most inexplicable thing in movie history. However, NOTHING can prepare you for this celluloid disasterpiece. Here, Nic is maybe going crazy, or maybe turning into a vampire, but definitely indulging in some serious overacting. And his “accent” is, well, I have no words except: “I’m a Vampiyah! I’m a Vampiyah! I’m a Vampiyah!” Possibly worse than “The Room” and thus highly recommended.

Anisette

It’s a shame that this anise flavored liquor is more likely to be found in your great-grandparent’s barmoire than in on your own shelves. It’s licorice-forward notes pair best with a piping-hot cup of espresso—that makes this evening apertif perfect for soothing the over-worked, under-medicated grad student.

Days Are Gone, Haim

One can only listen to so many glowing NPR reviews before caving to the cheers of the musistocracy. In this case though, they were right. Haim’s debut album mixes smart production with vocal mastery to yield a deviation on pop-rock so fun it’s like ingesting a fizz candy through your ears.

Glenn Close

If Meryl Streep is the undisputed titan of character acting, then Glenn Close is an Olympian who keeps her awake at night. Whether you’re talking about her star turn in Fatal Attraction, or even her chilling (and one suspects not altogether off-the-mark) depiction of the hot-then-cold Plaintiff’s lawyer Patty Hewes in Damages, this William & Mary alum exudes intensity. An exhibition of her career in costumes is on until Jan. 12 at the college’s Mucarelle Museum of Art.

The iPhone 5c

Just when you thought you and your iPhone 5 could were safely on top of the personal technology apex, the iPhone 5c comes around to remind you of a fundamental life lesson: no matter what you do, pretty soon there will always be someone smarter, thinner, and younger nipping at your heels. In another year we’ll all be wondering how we ever lived without these slightly-faster, neon-colored harbingers of obsolescence.
Welcome back, brave hunters! At this point in your education, it may be useful to discuss the different types of prey that inhabit the legal world. Chapter 2 of the Handbook provides an overview of several common beasts you may encounter in your future hunts, focusing on those that are most common around Symplicity Oasis, a common beginner’s hunting ground.

Resume Forward

Very little is known about this species of firm other than that it prefers resumes above all other bait, shunning such paltry, insubstantial offerings as cover letters and writing samples. Aside from its peculiar taste for resumes, which occasionally draws the Resume Forward to known hunting grounds such as Symplicity Oasis, the Resume Forward leads a largely solitary life. The Resume Forward is a favored prey for hunters who have been lax in preparing all appropriate varieties of bait (see Chapter 1), but it is highly elusive and likely to flee at the slightest hint of an interview. Many hunters—your author included—have tried repeatedly to capture this prey, but none have succeeded. Tranquilizer darts might prove effective in sedating the Resume Forward,* but to the best of your author’s knowledge, this is an untested method.

*Your author regrets that hunters must undertake any tranquilizing at their own risk.

Ottna

The Ottna species is comprised of two subspecies of Ottnas, both of which are prevalent around Symplicity Oasis. Ottnas, who consider themselves above many other varieties of firm, look down upon bait they regard as “unworthy.” In particular, the Ottna judges bait’s worthiness by examining resumes’ class rank markings and reject any bait that has class rank markings indicating it is outside the top 10 or top 20 percent. Only hunters possessing top 10 or top 20 resumes can approach this species of prey and keep its attention long enough to secure an interview. Because of this selectivity, early hunters called both subspecies of firm “Ottna”s—Only Top Ten Need Apply and Only Top Twenty Need Apply. Unconfirmed rumors suggest that a new variety of bait—often called “networking”—may allow some hunters to overcome the Ottna’s natural aversion to non-top 10 and top 20 resumes, but more research is needed before this can be verified.

Clerkship

The Clerkship tends to have a rather high opinion of itself. Clerkships are often quite fussy and high-maintenance, requiring hunters to jump through multiple hoops before they may be captured. The average Clerkship will rebuff any “sub-standard” hunters who approach it. Networking bait is particularly useful and Although hard to catch, the Clerkship is a very prestigious prey and highly desirable.

This concludes our discussion of common species of firms. In Chapter 3, we will turn to interviewing tips that will make even the most rookie hunter into a pro.

To be continued...
The Columnist Manifesto: On Justice

If justice means meager people, soccer moms get the same minimal government services then it’s no justice at all

Government is merely that which governs. One is governed by bicameral legislatures and Supreme Courts, but also by hunger and landlords and contracts of adhesion. Though I sympathize with the ideals of anarchists - both communist and libertarian alike - I am equally aware that power abhors a vacuum and resources will always be finite. Thus, there will always be governance. The question of governmental justification must then be viewed in the context of known reality, not through a theoretical lens.

I will concede a point to my friendly adversary Paul in this column; It is true that governments create classes of persons who can legitimately exercise state power and other classes that cannot. At least this is true in certain contexts: police officers, judges, benefits administrators, lawmakers, tax collectors, etc... He considers this last especially unjust, because it violates our natural physical parity when contracting. However, capitalism creates larger, positional inequalities, as capitalism is a competitive construct that mandates winners and losers. After all, the natural outcome of a truly dominant company or class of citizenry (in the context of meritocracy) is a monopoly or oligopoly of market power.

Monopoly power creates its own self-sustaining structures, which can broadly be called barriers to entry. The larger and more dominant a company (or oligarchy of companies), the more institutional capital that company has in store. They have factories, money in the bank, and vast stores of intellectual capital at their disposal. To be competitive on either a cost or innovation basis, a start-up competitor must either create an entirely new class of product or obtain a truly staggering amount of capital from investors. Moreover, because enormous sums of capital can only be raised from those that already have it, it means that (in most cases) those who already have power and money will receive the vast majority of any new innovation’s value.

So what does this discussion of monopoly have to do with the notion of justice? It’s straightforward: in the absence of government restrictions, market “winners” will become imbued with enormous and ever-increasing power. Money, after all, should be viewed as the power to coerce or persuade others. The greater the inequality between bargaining parties, the stronger the power to coerce. If someone has no money, subpar housing, subpar food, and little savings, the coercive power of someone with more of these things becomes high. If someone has little education, a poor upbringing, and few skills, they are subject to a Hobson’s choice: sell your labor for a pitance or face complete destitution by refusing to sell.

Ultimately, the person with capital has what the person with nothing needs, and the former can use that power to mine more power (profits) from the labor of the one who has little. There is zero reality in the notion that a sane person “agrees” to toil for slave wages or “agrees” to live in company dormitories for decades on end. It is nonsense to say persons “consent” to labor in unnecessarily dangerous conditions or “consent” to work three 31-hour jobs with no benefits. They are coerced by socioeconomic circumstances and human necessities to do so and by the hand of those with the monetary power to so coerce. Thus, socioeconomic inequalities breed classes who can compel and ever-poorer classes who must submit. The mathematical nature of inequality necessitates that the balance of all this coercive power rests with the minority.

In this context, justice requires that a government operating by consent of a majority of the government is vastly better than a “de facto” government which must only entertain the consent of those who can pay to exercise it. Free speech and civil liberties, beautiful as they are, will always be sold for food and shelter and even for that minimum level of frivolity which makes life tolerable. Indeed, one’s rights of free expression, privacy, and due process are nullified while at work and truncated in one’s apartment for this very reason. Decreasing the power of the state simply gives more power to monied private enterprises, which have no obligation to provide or protect these foundational freedoms we claim to treasure.

The idea of “justified” self-ownership and self-governance in the context of a “contract state” is nothing more than a Rita Hayworth poster covering a dank black hole. I lived in Detroit this summer and I fail to see how exactly the absence of basic government services made people freer.”
Justice requires private property

Respect for logic, argument requires that reasonable people treat IRS, highway robbers with same scorn

By Paul Wolfgramm
Staff Writer, 3L
pewolfgramm@email.wm.edu

At the heart of legal and political discourse is the question, “What is justice?” Although philosophers have argued for centuries about the meaning of justice, justice may be best understood by analyzing the norms that make the act of argument, or justification, meaningful.

Argument is a form of cooperation in which individuals establish what is true, in the case of descriptive argument, or proper, in the case of normative argument. In both cases, a process of inter-subjective verification occurs in which an individual offers a claim that another individual either accepts or rejects. Some claims, such as $X = X$, are tautological and objectively true independent of observation. However, the claim that an observed phenomenon is $X$ or that $X$ should be valued, however, must first be verified through argument before it can be considered objectively true or proper. Given that observation yields imperfect information, if individuals observe the same phenomenon, then those individuals can reconcile their differing claims about that phenomenon to arrive at conclusions with greater certainty than they could have achieved alone. Such an argument is meaningful only if the claims reconciled reflect the real subjective views of the individuals engaging in the argument.

Presupposed in the act of argument, and implicit in the justification of any claim, then, is the norm that one should respect another’s individual autonomy. If an individual violates the norm that one should respect another’s individual autonomy by using force or the threat of force to coerce another into accepting a claim as true or proper, then in the mind of the coerced individual, that claim will go unjustified. In other words, an individual’s consent is both necessary and sufficient to justify a claim in the mind of that individual, implying a natural freedom from contract and a natural freedom to contract. To claim that an individual does not have such natural freedom would be to argue against that which makes argument, or inter-subjective verification of claims, possible, which would be absurd given that the claim is being asserted in an argument. Consider the following scenario.

Suppose that you are out for a stroll when a stranger approaches you and asks, “Excuse me, may I please have your purse or wallet?” What would you do? Perhaps the stranger looks needy, and you, having a generous spirit, find the manner of the stranger’s request too kind to refuse. Perhaps instead you have a special attachment to your purse or wallet, and, although you may be willing to offer the stranger something else, you find the stranger’s specific request overly imposing. What, then, if the stranger, dissatisfied by your reaction, points a gun at your head and repeats his request? Has the character of the situation changed? Have you or the stranger acted unjustly?

Some people would argue that the stranger in the above scenario is a robber who unjustly threatened you, the innocent victim, with force. Some people, however, may argue that the stranger was the victim, who only threatened force defensively after you unjustly refused his request for your purse or wallet. Certainly only the former argument is correct. Under the former argument, a transfer of property, or the normative claim that property ownership should be transferred, is objectively proper only if both parties to a transfer provide consent, which implies that refusing consent to a transfer of property is also proper. Under the latter argument, a transfer of property is objectively proper if only one party to the transfer provides consent, which implies a war of all against all where the strong are free to subjugate the weak. The reasonable person recognizes that force or the threat of force is unjustly coercive, because force or the threat of force robs an individual of the ability to choose—the ability to justify—by offering severe injury or death as the only alternatives to agreeing with the claim asserted. Refusing to contract, on the other hand, does not rob another individual of the ability argue, and thus does not justify the threat of violence by the stranger. Would the scenario be different if the stranger were from the Internal Revenue Service?

Individuals naturally find themselves at parity, that is, bound by the same physical laws, when engaging in argument. Claiming that any individual or group has the authority to unilaterally declare a norm objectively proper is as absurd as a king claiming a divine right to rule. King James I wrote, “As to dispute what God may do is blasphemy, so is it treason in subjects to dispute what a king may do . . . .” A good king will frame his actions according to the law, yet he is not bound thereto but of his own goodwill.” By asserting that his consent is naturally superior to that of his subjects, the king places his commands outside of the possibility of justification. In contrast to the words of King James I, the Preamble of the Declaration of Independence states, “We hold these truths to be self-evident, that all men are created equal.” Rather than advocate for socioeconomic equality, which is impossible to achieve, the Preamble likely advocates for equality in power and jurisdiction between individuals such that no individual may justly subordinate another individual.

The philosopher Roderick T. Long applies similar reasoning to criticize modern democracies, which fund egalitarian projects through coercive taxation, stating: [T]o ignore or mask the violence upon which socioeconomic legislation necessarily rests is to acquiesce in the unconscionable subordination and subjection that such violence embodies. It is to treat those subordinated and subjected as mere means to the ends of those doing the subordinating, and thus to assume a legitimate inequality in power and jurisdiction between the two groups.

Perhaps as government dysfunction increases, legal scholars will reexamine the concept of individual autonomy and advocate for a more philosophically consistent treatment of individual autonomy under the law. Justice demands nothing less.
recited the classical Centaurian poem *Eight Legs, One Heart* while self-accompanying on traditional Centaurian drums.

Justice Antonin Scalia, the lion-hearted conservative stalwart, partnered with his friend and colleague Justice Anthony Kennedy (together, “The Tonies”) to recreate the famous *Star Wars* scene, playing Jabba the Hutt opposite Kennedy’s slave Leia.

Scalia impressed with the likeness of Jabba he was able to create—thanks not only to his makeup and costume, but also the facility with which he adopted the cantankerous Hutt’s snoozy, gaping, lazy-tongued mien. Even more surprising, the senior justice regaled his fortunate interlocutors in fluent Huttese, reciting his own translation of Shakespeare’s 18th sonnet.

Justice Kennedy, meanwhile, acquitted himself admirably as Scalia’s bikini-clad sexpot. Reportedly, the swing justice successfully minimized the nauseating effects of his scant habit.

“When I first saw him, I thought someone had come as a prawn trapped one of those plastic six-pack holders,” said one unappetized onlooker. “But the more I looked, the more I wanted to look.”

Not all in attendance shared that favorable opinion, however. The ghost of Justice Potter Stewart, also present, apparently found the display obscene, declaring (in reference to his famous pornography test), “I see it.”

Upon her entrance, Elena Kagan, the rising intellectual leader of the Court’s liberal justices, turned the heads of all those not fixated on Clarence Thomas. Justice Kagan appeared dressed as Elvis Presley, and so true-to-life was her costume that many were convinced the King had, in fact, entered the building.

The impeccably-coiffed impersonator seemed to have jumped right out of 1956. She appeared tall and lean, and gyrated to and fro on the dance floor as if her hips were chasing her jazz hands. So lively and acrobatic were her dance maneuvers that the party erupted in chant, insisting she deliver a dedicated performance of “Hound Dog”. Kagan signaled her acquiescence with a split, and took to the mic.

“It was perhaps the single greatest anticlimax in human history,” gushed the guy who came up with the ending to *Monty Python and the Holy Grail*, also in attendance. “She just discoursed for 23 minutes on animal rights law and fox hunting without a hint of an Elvis accent.”

Kagan closed her comments with a personal twist on Elvis’s famous line: “Thank you, I truly appreciate your courteous patience.” That part, inexplicably, she did do with an Elvis accent.

The Notorious RBG, sometimes referred to as Justice Ruth Bader Ginsburg, is well known as the Court’s most pop culture-savvy member. Ginsburg’s lectures on the latest Jay-Z single, that sick catch from last night’s football game, or the most recent SAW movie are something of a legend among Supreme Court clerks, who also know Ginsburg’s house to be “the sickest party spot in the District.”

In keeping with her reputation as a hip dude, Ginsburg arrived dressed as television icon (and popular costume choice for 2013) Walter White, Bryan Cranston’s character from the AMC program *Breaking Bad*.

“Heisenberg was a personal choice for me,” said Ginsburg, who operated as a methamphetamine manufacturer during most of the 1990s. “Plus, I’ve always wanted to see what I’d look like
Vosburg v. Putney

From Torts, page 8

and kicked his leg sideways with all the force of an inbred puppy. At the end of its arc it landed squarely on Gerald Vosburg's shin - right where he had injected the glorious Krokodil only hours before.

Gerald had already noticed the effer-scente rush of his injection wearing off by the time Putney's kick made contact, and glared at Reginald in frustration. Ten minutes later, Gerald felt a sharp stinging sensation in his leg. “It can't be...”, he muttered under his breath. Then the pain came back multiplied a thousand fold, like a newly-forged saber had split his shin. “NOOOO!” he cried, as the entire classroom turned back in horror. He rolled around on the floor crying as the school slowly went dark.

Months passed with numerous surgeries but Gerald's leg was now that of a cripple. At first, Vosburg had not made the connection, but it came to him in a flash: it was Putney's kick that did the damage. “My precious rat had been left alone, allowing the Krokodil to work, but Reggie Putney's kick interrupted the magical healing!” Leaving out any discussion of his clandestine alchemical pursuits, Gerald told his parents about Reginald's kick, and soon the Vosburgs were suing the wealthy Putney family.

The judge agreed that the small kick had not been meant to injure Gerald, but scolded the boy for not repeating “24 times 23 is 552” without kicking. The kick was an unlawful action, and so the judge agreed that the small kick did the damage. “My precious rat had been left alone, allowing the Krokodil to work, but Reggie Putney's kick interrupted the magical healing!” Leaving out any discussion of his clandestine alchemical pursuits, Gerald told his parents about Reginald's kick, and soon the Vosburgs were suing the wealthy Putney family.

The judge agreed that the small kick had not been meant to injure Gerald, but scolded the boy for not repeating “24 times 23 is 552” without kicking. The kick was an unlawful action, and so the expected consequence must fall upon Putney's pocketbook. The plaintiff's ex-wife, accused not-takers of being “Hapsburgs” and “damned papists.”

Justice Breyer, known best for his perpetual congenial smile, broke tradition and attended as Grumpy Cat, the ceaselessly unamused feline of Internet fame. Breyer spent the evening curled up in a corner, disapproving of the festivities.

When asked if he was enjoying himself, Breyer responded, “No.” Several partygoers attempted to lure him onto the dance floor or toward the buffet with balls of yarn, laser pointers, and copyright law treaties. None of these efforts proved effective, however, and eventually everyone gave up.

“All right, that was,” grumbled a thwarted Sandra Day O'Connor (disguised as Betty Boop), “I'm just going to leave you and hang out with the Tonies.”

“Good,” said Breyer.

Best argument against ‘micro'-government: Detroit

From Detroit, page 4

and kicked his leg sideways with all the force of an inbred puppy. At the end of its arc it landed squarely on Gerald Vosburg's shin - right where he had injected the glorious Krokodil only hours before.

Ginsburg, the eldest justice, also assumed the role of tour guide for the Supreme Court building, which was set up as a haunted house for the occasion. Included on the tour was Ginsburg's old basement meth lab, where she “used to cook the dopest crystal you ever bumped.” Retired Justice Jean Paul Stevens, who served as Ginsburg's street liaison during the 90s and dressed as Jesse Pinkman for the party, distributed samples of their old product.

“The secret,” he said, winking, “is to crush it up with the gavel of a Supreme Court justice.”

Also doing double duty for the SCOTUS bash (and also taking a Hollywood cue for her costume) was Justice Sonia Sotomayor, whose Delta Burke Designing Women getup was clearly the most obscure and least inappropriate costume of the evening. Sotomayor, drawing inspiration from her interior designer alter ego, was responsible for the soiree's decorations, and rendered the Court the very image of late-80s southern Halloween chic.

Justice Thomas broke character for a brief moment to issue (uncharacteristically of the reserved man) his colleague considerable adulation.

“Sonia,” he said, “truly has the soul of a Georgian. On the day of her nomination, I looked into her eyes and read in her a true Lady of the South. I speak for Peach-Eaters, Bulldogs, and Civil Rights Flouters everywhere when I say: It is a high honor that she has dressed as a fictional Miss Georgia this evening.”

Clearly very emotional, Sotomayor dabbed at her eyes with a spooky shoulderpad.

Justice Samuel Alito, known to many as “the scary one,” arrived late to the event, and initially elicited very favorable responses to his costume.

“He’s makeup was incredibly well done,” said the valet who parked Alito's car. “He was so pale and ghostly; his eyes, glassy and lifeless. They seemed to look right through you. It gave me shivers.”

One attendee, later identified as Alito's wife, compared his voice to “a carrion call from beyond the grave.”

Alito later appeared at the party costumed as Henry VIII, the English monarch notorious for his many wives and for breaking from the Catholic Church.

“I was a bit late, and had to change into my costume in my chambers,” commented Alito, proudly bearing a royal purple cape and crown. The conservative justice spent the balance of the evening seeking co-conspirators for the beheading and replacement of his “seditious and slanderous wife,” accusing non-takers of being “Hapsburgs” and “damned papists.”

Justice Breyer, known best for his perpetual congenial smile, broke tradition and attended as Grumpy Cat, the ceaselessly unamused feline of Internet fame. Breyer spent the evening curled up in a corner, disapproving of the festivities.

When asked if he was enjoying himself, Breyer responded, “No.” Several partygoers attempted to lure him onto the dance floor or toward the buffet with balls of yarn, laser pointers, and copyright law treaties. None of these efforts proved effective, however, and eventually everyone gave up.

“All right, that was,” grumbled a thwarted Sandra Day O'Connor (disguised as Betty Boop), “I'm just going to leave you and hang out with the Tonies.”

“Good,” said Breyer.
Gerald Vosburg was a peculiar boy. His friends noticed, in the winter of 1888, that he was refusing more and more of their requests to come out and play. He did not want to sled or to throw a baseball around when spring finally came. Even rich Mr. Bickford’s new wax cylinder music player could not interest him. Instead, each day after school, Gerald would disappear into the mildewy basement of his newly electrified house, a strange dark gleam in his eye.

At the same time, Waukesha’s local chemist noticed that small quantities of his most dangerous chemicals were going missing.

Sitting in the basement, with the door locked, Gerald began his experiments. He had laughed at the scientific inaccuracy of Shelley’s Frankenstein, but had stumbled upon a dusty, yellowed book on Alchemy in the bowels of the Waukesha library. This book’s author, James Price, admitted that Lead could never be Gold but instead formed 5 vials, each with the rest of the formula plus different ratios of lead. Then Gerald keeled over from exhaustion, smashing his lower leg against the giant table that served as his laboratory.

His accomplishment ready for mass production, our heroic chemist decided to skip his now-habitual morning speedball. Soon he found his leg in great pain. Had he simply masked his weeks-old injury with opiates the whole time? Oh! Oh! “The Krokodil will cure this injury!” It was a true panacea - not only would the leg heal, but Gerald knew he would live forever in youth! He drew a large quantity of the oily, reddish liquid into the syringe and then, wincing in anticipation, thrust it directly into his leg. At first he experienced a warming sensation and then a complete deadening numbness. Best of all, his whole body felt renewed and powerful.

Gerald awoke rubbing his leg, but ignored the pain with the help of some laudanum. All the rats were still alive, but two looked quite poor. Still, young Mr. Vosburg went off to school in high spirits. For the first time, his five remaining rats. This done, Gerald impotently begging him to sleep. First, he created 5 vials, each with the rest of the formula plus different ratios of lead. Then he injected each of the vials into one of his five remaining rats. This done, Gerald keeled over from exhaustion, smashing his lower leg against the giant table that served as his laboratory.

Gerald woke rubbing his leg, but ignored the pain with the help of some laudanum. All the rats were still alive, but two looked quite poor. Still, young Mr. Vosburg went off to school in high spirits. That night, he buried the two laggard rats. Day after day, week after week this went on until only one rat remained. Gerald’s mind convinced him that this rat looked vigorous, muscular, and somehow young... in the way that rodents can look young. Gerald threw his arms in the sky, knowing his solution worked. Looking at the strangely reptilian scar near the survivor rat’s injection site, Gerald decided to call his invention “Krokodil”.

His accomplishment ready for mass production, our heroic chemist decided to skip his now-habitual morning speedball. Soon he found his leg in great pain. Had he simply masked his weeks-old injury with opiates the whole time? Oh! Oh! “The Krokodil will cure this injury!” It was a true panacea - not only would the leg heal, but Gerald knew he would live forever in youth! He drew a large quantity of the oily, reddish liquid into the syringe and then, wincing in anticipation, thrust it directly into his leg. At first he experienced a warming sensation and then a complete deadening numbness. Best of all, his whole body felt renewed and powerful.

Gerald Vosburg skipped awkwardly to school his face beaming and his eyes dilated, with a numb right leg occasionally dragging all the while. Once there he sat next to Reginald Putney, a mawkish 11-year old who never stopped fidgeting. Indeed, his legs were always swaying around in loose-jointed circles. After two hours of repeating multiplication tables out loud, Putney couldn’t stand to sit still any longer.

**CASE HISTORIES**

**Vosburg v. Putney**

**Holding:** Intent to do an unlawful act is sufficient to prove an intentional tort; Defendant is liable even for unforeseeable damages flowing from an unlawful act

By Kristin White
Staff Writer, 3L
kwhite@email.wm.edu

Consumed by the desire to triumph over tuberculosis, diphtheria, and death itself, Gerald became more and more pale, his eyes sockets purple and hollow from insomnia. To keep his stamina up, he took Freud’s highly-promoted “Uber Coca”, which Vosburg’s chemistry texts called cocaine hydrochloride. It was a true panacea - not only would the leg heal, but Gerald knew he would live forever in youth! He drew a large quantity of the oily, reddish liquid into the syringe and then, wincing in anticipation, thrust it directly into his leg. At first he experienced a warming sensation and then a complete deadening numbness. Best of all, his whole body felt renewed and powerful.

Gerald awoke rubbing his leg, but ignored the pain with the help of some laudanum. All the rats were still alive, but two looked quite poor. Still, young Mr. Vosburg went off to school in high spirits.

**[Editor’s Note: Case Histories is our monthly romp through the facts of iconic cases. These columns present the fictional backstory behind cases you might have studied; we tell you what could have happened, but necessarily what did.]**