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ON THE AFFECTATION OF “PRONGS” IN LEGAL WRITING

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The analysis by “prongs” is probably the invention of a circuit judge in 1973. In opinions of a few judges, the prong is a metaphor or symbol for an issue, or detached component of one, no doubt thought by the author to make his argument more poignant, but more likely a device of obscurity. The perceived issues in a case are comminuted and assimilated to the tines of a fork. Poseidon’s trident was possibly the inspiration but his three tines are rarely adequate. A pitch fork offers four, six have been noticed, and in a complex case a virtuoso may find the 12-tined (manure) fork inspirational. Difficulties with this system are that the polished linearity for which prongs are admired is free of the awkward nuances of the issue; like tines generally, they do not associate or speak with each other, and sometimes point in erroneous directions. The following disposition is recommended.

POSEIDON’S PRONGS AS POINTS OF LAW

Dull tines abound on dinner forks;
On runcible spoons as well;
Seldom do either cause us pain
Or threaten lightning to compel.

Three tines Poseidon’s trident has,
Or “prongs” as more and more we see,
With lightning to enforce his rule
Of oceanic majesty.

Betimes, a fretful land-bound judge,
Immersed in admiralty,
Bethought himself how pointedly
He might emphasize the law at sea.

1 Possibly, Roney, J., 1973 AMC 652, 661 (5th Cir.) (“This argument has three prongs.”)
And bored by bloodless legal texts,
Each clause in grave succession,
Thought some word of added thrust
Would heighten its impression.

Poseidon to his notice came;
For whose authority he longed;
And when the trident took his eye
He saw instanter it was pronged.

A legal arsenal of prongs
Was not beyond his wits,
Although his weapons theretofore,
Alas, had been but paper writs.

It seemed a rule of clauses three
Would better pierce to learning’s core
If recast in the form of prongs,
A piercing metaphor.²

So this could be more freely done,
Anon the trident was trisected,
Its prongs to use discretely, two or one,
Or multiply for clauses more complected.³

A very facile thing’s a prong,
Removed from godly guidance,
And wielded by lesser hands,
A slippery contrivance.

As these verbal prongs abound,
They’ve leapt from court to court,
Inapt cliché, they’re even found
In that of last resort.⁴

No more restricted to the sea,
Where once they had belonged,
Even to desert courts they trend,⁵
Where arid parties may be pronged.

Oh, justices and judges,
In the goodness of your hearts,
Give up this cliché slang;
Refer to “clauses,” “points” or “parts”;

² Roney, J., 1973 AMC 652, 661 (5th Cir.) (“This argument has three prongs.”).
⁴ Brennan, J., in Lauro Lines, 1989 AMC 1474; Souter, J. (abundantly) & Thomas, J., in Grubart, 1995
AMC 913; O’Connor, J., in Chandris, 1995 AMC 1840; Thomas, J., in Stewart, 2005 AMC 609.
loitering statute); Daimler Chrysler Motor Co. v. Williams, 142 Cal. App.4th 344 (2006) (anti-SLAPP
statute).
And honor grant the sea god,
His purloined emblem yielding,
The trident with its prongs intact,
For his exclusive wielding