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The Green Bag's

Greatest Quips

1997 – 2002

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selected & edited by

Ross E. Davies, Montgomery N. Kosma,
James C. Ho, Thomas H. Dupree, Jr. &
Andrew E. Stephens

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“I know of no field of learning so vulnerable to burlesque, satire, or occasional pokes in the ribs as the bombastic pomposity of legal dialectic....”

Frontispiece, 1 GREEN BAG 2D (Autumn 1997)
(quoting Fred Rodell, *Goodbye to Law Reviews*,
23 VA. L. REV. 38 (1936)).


Editors

Daniel G. Currell, Ross E. Davies, Susan M. Davies,
Thomas H. Dupree, Jr., Steve Engel, David L. Franklin,
Curtis E. Gannon, Suzanne Garment, David M. Gossett,
Britton B. Guerrina, James C. Ho, Gregory F. Jacob, Melanie James,
Susan Kearns, Montgomery N. Kosma, Thomas B. Nachbar,
David B. Salmons, Keith Sharfman & Edward N. Siskel

Advisors

Robert C. Berring, A. Morgan Cloud, David P. Currie,
Joshua Dressler, Richard A. Epstein, Leonard Garment,
Mary Ann Glendon, R.H. Helmholz, Philip B. Heymann,
Dennis J. Hutchinson, Henry P. Monaghan, A.W.B. Simpson,
Kate Stith-Cabranes & William W. Van Alstyne

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There is something radically amiss in a world where hundred-page articles with more footnotes than text proliferate, where authors feel constrained to rehearse in hideous detail what every imaginable reader already knows before coming forth with the usual mouse, where readers must sift through mountains of verbiage to find the kernels of truth they so diabolically conceal. Any article of more than forty pages should be reconsidered; any article with a table of contents should be suppressed.

David P. Currie, *Green Bags*,
I GREEN BAG 2D 1, 2 (1997).

The rule of thumb is that the better the law school is, the worse its legal research training will be.

Bob Berring, *Ring Dang Doo*,
I GREEN BAG 2D 3, 4 (1997).

No clause of the Constitution *requires* one state to trample gratuitously on the interests of another.

David P. Currie, *Full Faith & Credit to Marriages*,
I GREEN BAG 2D 7, 8 (1997).

The tea in Boston Harbor came from (or was it bound to?) foreign ports.

Richard A. Epstein, *Fidelity Without Translation*,
I GREEN BAG 2D 21, 23 (1997).

Modern constitutional theorists usually bristle at the thought that common law doctrines can speak to the lofty issues of constitutional interpretation.

Richard A. Epstein, *Fidelity Without Translation*,
I GREEN BAG 2D 21, 25 (1997).

Cost-benefit analyses can often be tedious in the extreme

Merton H. Miller, *The Private Interest & the Public Interest*,
1 GREEN BAG 2D 33, 34 (1997).

Substantive due process does not deserve wide acceptance.

Cass R. Sunstein, *The Dred Scott Case, With Notes on
Affirmative Action, the Right to Die & Same-Sex Marriage*,
1 GREEN BAG 2D 39, 50 (1997).

The bottom line, then, must be this: There can be no bottom
line.

Mark Tushnet, *How to Deny a Constitutional Right*,
1 GREEN BAG 2D 55, 65 (1997).

It seems to me that we can't keep inventing improvements to the
Constitution every time someone does something wrong.

Theodore B. Olson, *From Morrison to Starr*,
1 GREEN BAG 2D 67, 70 (1997).

No one, as yet, has succeeded in tying down unwilling courts,
whether by express statutory provision or by elaborate interpretation
clauses, so as to preclude judicial molding of statutes to what the
judges conceive is practicable and just.

Roscoe Pound, *A Practical Program of Procedural Reform*,
1 GREEN BAG 2D 75, 83 (1997)
(originally published at 22 GREEN BAG 438 (1910)).

“Eschatocol” has been used twenty-two times in the published
oeuvre of the federal bench – all twenty-two courtesy of Judge
Selya.

David Franklin, *Judge Bruce Selya, Resipiscent Recidivist*,
1 GREEN BAG 2D 95, 96 (1997).

Hochschild professes to be “mortified” that [her] book has been embraced mainly by conservative commentators.

Katharine Silbaugh, *The Polygamous Heart*,
I GREEN BAG 2D 97, 98 (1997).

Just when you thought you knew everything rotten about the political system, [Fred] McChesney convinces you otherwise. Congressmen and state legislators, he shows, sell protection just like the Mob.

Gregory A. Maggs, *More Than One Cent for Tribute*,
I GREEN BAG 2D 101, 101 (1997).

Su-preme Court rendered its decision,
Su-preme Court, reason sharp and clean;
Su-preme Court said railroads should envision
That a hogger’d use a rattler for a durned latrine.

Brainerd Currie, *Casey Jones Redivivus*,
I GREEN BAG 2D 113, 116 (1997).

“When reading a footnoted opinion one’s eyes are constantly moving from text to footnotes and back again. . . . If footnotes were a rational form of communication, Darwinian selection would have resulted in the eyes being set vertically rather than on an inefficient horizontal plane.”

Frontispiece, I GREEN BAG 2D (Winter 1998)
(quoting Abner Mikva, *Goodbye to Footnotes*,
56 U. COLO. L. REV. 647 (1985)).

Now, don’t get me wrong; I am as fond of judicial procedures as the next judge

Bruce M. Selya, *Why Not Settle This Outside?*,
I GREEN BAG 2D 117, 118 (1998).

“Such is the frailty of the human heart, that very few men who have no property, have any judgment of their own.”

Richard H. Chused, *Family (Proper)ty*,
1 GREEN BAG 2D 121, 122 (1998) (quoting John Adams).

In short, there is nothing special about a degree.

Richard H. Chused, *Family (Proper)ty*,
1 GREEN BAG 2D 121, 127 (1998).

Byron White came to Yale Law School more or less at gunpoint.

Dennis J. Hutchinson, *Whizzer White at Yale*,
1 GREEN BAG 2D 137, 137 (1998).

“The only proper way to allocate resources is to create an administrative agency – staffed by experts – such as former Professor [William O.] Douglas or former Professor [Abe] Fortas.”

Dennis J. Hutchinson, *Whizzer White at Yale*,
1 GREEN BAG 2D 137, 143 (1998)
(quoting Louis F. Oberdorfer).

How better to describe a lover’s self-delusion upon being cheated than, “When a lovely flame dies, smoke gets in your eyes”?

Fred S. McChesney,
Just Let Me Read Some of That Rock ’n Roll Music,
1 GREEN BAG 2D 149, 149 (1998)
(quoting Otto Harbach & Jerome Kern,
Smoke Gets in Your Eyes (T.B. Harms Co., ASCAP)).

Legal writers, addicted to citations, need more sources blending truth with concision.

Fred S. McChesney,
Just Let Me Read Some of That Rock 'n Roll Music,
1 GREEN BAG 2D 149, 149 (1998).

In the old days, the judges used to have a phone that went directly to Communist Party headquarters. That way, they would know which phone always had to be answered. I was assured that that doesn't happen anymore.

Ronald D. Rotunda, *Eastern European Diary*,
1 GREEN BAG 2D 163, 170 (1998).

Epstein is thus criticizing Lessig for preaching what Epstein practices.

William Michael Treanor, *Translation Without Fidelity*,
1 GREEN BAG 2D 177, 178 (1998).

It is possible to be a constitutional originalist or a defender of the Supreme Court's commerce clause jurisprudence. It is not possible to be both.

Richard A. Epstein, *More Fidelity, Less Translation*,
1 GREEN BAG 2D 185, 185 (1998).

The downfall of the green bag was very rapid ... and at the present time its use as a mark of distinction seems confined to a few university towns where it is still carried by the proud law student and the humble laundryman.

Donald Richberg, *The Rise and Fall of the Green Bag*,
1 GREEN BAG 2D 191, 193 (1998)
(originally published at 18 GREEN BAG 465 (1906)).

Indeed, after taking a brief trip through the case law I have begun to suspect that lawyers and judges are confusing the shibboleth with its not-so-distant cousin, the talismanic incantation.

David Franklin, *Slogans & Shibboleths*,
I GREEN BAG 2D 195, 196 (1998).

The solution to bad teaching is not to eliminate a challenging teaching strategy ...

Elizabeth Garrett, *Becoming Lawyers*,
I GREEN BAG 2D 199, 203 (1998).

We don't trust bureaucrats, so we make sure that their every breath – and thus our every breath – is hemmed in by prescriptive rules. But who do we think writes the rules?

Kate Stith-Cabranes, *Fear of Discretion*,
I GREEN BAG 2D 209, 213 (1998).

“Judicial humor” may not be an oxymoron, but it is a precious elixir best sipped in tiny doses.

Kent C. Olson, *Those Who Play With Cats*,
I GREEN BAG 2D 217, 218 (1998).

The real breakthrough, of course, was the first iteration of President Gates' Series 1 Neural Net Reducer, which allowed him to replicate the thinking of wise judges, respected figures and moral paragons.

Robert C. Berring, *A Few Parting Words*,
I GREEN BAG 2D 227, 228 (1998).

There's a certain old profession that you simply can't evade
In whatever your endeavor, and in any craft or trade:
 From a complication mission
 To a simple proposition
You'll be destined for perdition if you lack a lawyer's aid.

For there's little that escapes the law's interminable growth,
Be it marriage, private carriage, or delivering an oath.

 "Nothing's sure but death and taxes,"

 And the key to both these facts is

That the lawyer still extracts his pound of legal fees from both.

Richard Craswell, *On the Importance of Lawyers*,

1 GREEN BAG 2D 223, 223 (1998).

"Law has always been unintelligible, and I might say that perhaps it ought to be."

 Frontispiece, 1 GREEN BAG 2D (Spring 1998)

 (quoting Learned Hand, *Thou Shalt Not Ration Justice*,

 9 BRIEF CASE no. 4 at 3, 4 (1951)).

Still, the tug of a vulgar ecumenism is sufficiently strong that people protesting the treatment of women in China, for instance, find it necessary to deny that they are practicing cultural imperialism. Of course, that is exactly what they are doing, and rightly so, because, speak it softly, some cultural practices are wrong.

 Morris S. Arnold, *Law with a Vengeance*,

 1 GREEN BAG 2D 231, 233 (1998).

Marx will have been proved not wrong, but merely out of season

 Paul D. Carrington, *The New Social Darwinism*,

 1 GREEN BAG 2D 235, 243 (1998).

Where did this remarkable provision come from? Where did Congress imagine it go the authority to enact it?

David P. Currie, *The Vaccine Agent*,
I GREEN BAG 2D 245, 245 (1998).

Thus a certain type of individual, who combines obsequiousness with glibness and aggressiveness, is disproportionately (and disgustingly) in evidence in the academic hiring process of the legal academy.

Martha Nussbaum, *Cooking for a Job*,
I GREEN BAG 2D 253, 259 (1998).

No legal academic thinks that the federal judiciary is an awe-inspiring elite, or a top source of judgment on intellectual issues. And yet, year after year, institutions look on prestigious clerkships as important evidence when they assess the potential of an academic job candidate.

Martha Nussbaum, *Cooking for a Job*,
I GREEN BAG 2D 253, 259 (1998).

It is no secret that much legal scholarship is very bad.

Martha Nussbaum, *Cooking for a Job*,
I GREEN BAG 2D 253, 261 (1998).

While the Ninth Circuit is large, however, it has yet to encompass New Jersey.

John C. Yoo, *Criticizing Judges*,
I GREEN BAG 2D 277, 279 (1998).

The reader may be pondering why the editors latched on to this aged debate. When I asked them this question some time ago, they were graciously noncommittal; perhaps this reserve was payback for their having long endured the Socratic method.

Bernard D. Meltzer,
The Brandeis–Gompers Debate on Incorporation of Labor Unions,
1 GREEN BAG 2D 299, 304 (1998).

[T]he way to correct the evil of an unjust decision is not to evade the law but to amend it.

Louis D. Brandeis, *The Incorporation of Trade Unions*,
1 GREEN BAG 2D 306, 310 (1998)
(originally published at 15 GREEN BAG II (1903)).

I should as willingly admit my insanity as to imagine that the organizations of labor are composed of archangels.

Samuel Gompers, *The Incorporation of Trade Unions*,
1 GREEN BAG 2D 306, 315 (1998)
(originally published at 6 *The Samuel Gompers Papers*:
The American Federation of Labor
and the Rise of Progressivism 1902-6 at 71).

These problems with [proportional representation] go beyond racial issues. Return for a moment to the “town” analogy, which the authors use to suggest we might be better off with several shops all along the street rather than two large stores [the Democratic and Republican parties] near the center of town. This sounds appealing as long as we don’t look at where folks live along the street. Does the town model analogy work well if most people actually live near the center of town? Or does this model elevate the needs of those at the edge of town over those at the center? In which town do you think it would be easier to meet the basic needs of life – one in which a

political Wal-Mart and Costco stood near the center of town, or one with only small specialty shops, say a gun shop, two bitterly competing abortion shops, a Chamber of Commerce, a Nature Company, a farmers' cooperative, an African heritage boutique, and a skinhead barbershop? The second town might be an exciting place to visit, but I wouldn't want to live there.

R. Hewitt Pate, *Destabilizing Democracy*,
1 GREEN BAG 2D 331, 338-39 (1998).

A Tax Day on November first
Would regulate the voters' thirst
By entering the polling booth
With tax in mind, we'd vote the truth.

Peter H. Schuck, *Deficit Reduction Made Easy: Change Tax Day*,
1 GREEN BAG 2D 345, 348 (1998).

"When the [Supreme] Court moved to Washington in 1800, it was provided with no books, which probably accounts for the high quality of early opinions."

Frontispiece, 1 GREEN BAG 2D (Summer 1998)
(quoting Robert H. Jackson, *The Supreme Court
in the American System of Government* 30 (1955)).

Nixon: We get the newspapers, Len. It's part of the punishment. If you've been really evil, they only give you the *Washington Post*.

Leonard Garment, *Vita Brevis Ars Aeterna Est*,
1 GREEN BAG 2D 349, 350 (1998).

Nixon: ... You're trapped between decency zealots and First Amendment crazies.

Leonard Garment, *Vita Brevis Ars Aeterna Est*,
1 GREEN BAG 2D 349, 352 (1998).

Congress may have had authority to regulate pretty nearly everything, but it did not do so. Sixty years after the “death” of constitutional federalism most private law is still state law.

David P. Currie, *Subsidiarity*,
1 GREEN BAG 2D 359, 361 (1998).

Sherwood v. Walker is arguably second only to *Moby-Dick* in having the finest opening sentence in all of literature – “Replevin for a cow.”

Davison M. Douglas, *Attenuated Subtleties Revisited*,
1 GREEN BAG 2D 375, 376 n.11 (1998)
(quoting *Sherwood v. Walker*, 33 N.W. 919, 919 (Mich. 1887)).

Where the Justices cannot come to agreement upon a unified jury instruction, a decision rule must be adopted to determine which of alternate charges is to be delivered. The jury instruction issue is therefore inextricably intertwined with the problems addressed by modern social choice theory.

Robert A. James, *Instructions in Supreme Court Jury Trials*,
1 GREEN BAG 2D 377, 379 (1998)
(citing *Arizona v. Fulminante*, 499 U.S. 279, 281 (1991), and
Kenneth Arrow, *Social Choice and Individual Values* (2d ed. 1963)).

[A]n appellate judge leads a hermit’s existence. Weeks can go by before one is scheduled to lay his eyes on anyone other than his clerks and secretaries.

James L. Buckley, *Reflections of Law & Public Life*,
1 GREEN BAG 2D 391, 391 (1998).

A wood thrush's song, for example, is no more subject to a cost-effective calculus than a Bach chorale, and it seems to me an act of unseemly arrogance to decree the extinction of a unique form of life without a compelling reason.

James L. Buckley, *Reflections of Law & Public Life*,
I GREEN BAG 2D 391, 395 (1998).

In fact, my remedy for just about everything that has gone wrong with this country – and I think a number of things have – consists of taking the Tenth Amendment seriously.

James L. Buckley, *Reflections of Law & Public Life*,
I GREEN BAG 2D 391, 396 (1998).

Colorful prose is just hard to come by in the United States Code or the Federal Register.

David Franklin, *Void for Vividness*,
I GREEN BAG 2D 411, 411 (1998).

Put simply, Byron White did not have to be a Supreme Court justice to think that he had accomplished something in his life. Of how many of his colleagues on the Court when he retired could that be said?

Mark Tushnet,
Byron White: The Football Player as Supreme Court Justice,
I GREEN BAG 2D 419, 423 (1998).

Rights always seem obvious to those who hold they are being denied.

Michael A. Bellesiles, *Parchment Barriers*,
I GREEN BAG 2D 433, 435 (1998).

No one has yet improved on the observation of Dwight Merriam, a distinguished Connecticut land-use lawyer, who has opined that the appearance of a new phrase in a “big” U.S. Supreme Court land-use case means that each land-use lawyer will be able to buy a new car in the next three years.

Gideon Kanner,
Holy Shit, I’m Going to Write the Law of the Land,
1 GREEN BAG 2D 425, 430-31 n.11 (1998).

In a cow one condones a trifle of loose
Morality if she will just reproduce.

Brainerd Currie, *Rose of Aberlone*,
1 GREEN BAG 2D 445, 447 (1998).

“Rose, you’re about to become a mother!”
She blushed and replied, “Ich kann nicht udder.”

Brainerd Currie, *Rose of Aberlone*,
1 GREEN BAG 2D 445, 449 (1998).

I recall a case involving a fortune teller. Her home town passed an ordinance forbidding fortune telling within the city limits. Not regulation, but total prohibition. Obviously there were some First Amendment problems involved. After all, every sports page of a newspaper forecasts how games will turn out. And most ministers forecast in sermons what the hereafter will be like. The fortune teller sought an injunction to prevent enforcement of the ordinance. She lost in the courts below and our court granted a hearing. As the attorney for the fortune teller arose to argue, Chief Justice Lucas said, “Counsel, you have us at a disadvantage.” The attorney was incredulous. “Why, Your Honor?” he asked. Chief Justice Lucas replied, “Hasn’t your client told you how this case will turn out?” I must say that I could not have fielded that query in an intelligent

manner. This lawyer, however, rose to the occasion. “Your Honor must realize that I did not consult my client for advice, she consulted me.” Touché!

Stanley Mosk, *Courtroom Humor*,
2 GREEN BAG 2D 1, 2 (1998).

We do not claim that the portrayals of interrogations on *NYPD Blue* are necessarily representative of those on other cop shows.

Susan Bandes & Jack Beermann, *Lawyering Up*,
2 GREEN BAG 2D 5, 7 n.10 (1998).

The appeal to sovereignty was the most potent *theoretical* weapon the British government could wield, but its deployment proved a fateful *political* error. ... The fact that the British had to insist that they *did too* possess sovereignty was the very proof that ultimately the Empire wore no clothes.

Jack N. Rakove, *Making a Hash of Sovereignty, Part I*,
2 GREEN BAG 2D 35, 38 (1998).

There’s this notion, fostered in the law schools, that anything decided on the merits is better than anything decided on procedural grounds.

Alex Kozinski & Fred Bernstein, *Clerkship Politics*,
2 GREEN BAG 2D 57, 60 (1998).

Bernstein: I've been thinking a lot this past year about whether ideology should matter in choosing a clerkship. When I was in law school, it surprised me to discover that few of my professors put ideology high on the list of factors a prospective clerk should weigh. The prevailing wisdom seemed to be, "Go for the biggest name you can get." There is at least one exception – Burt Neuborne at NYU advised a liberal friend of mine not to sell his soul to a conservative judge – but his voice was drowned out by so many others saying, in effect, don't let politics stand in the way of a prestigious clerkship.

Kozinski: And did your friend take Neuborne's advice?

B: No.

K: Oh, goodie! Another soul for us.

Alex Kozinski & Fred Bernstein, *Clerkship Politics*,
2 GREEN BAG 2D 57, 57 (1998).

Law students who read this book and believe it will flunk constitutional law (an admittedly flawed metric by which to judge creative constitutional discourse). Citizens who read it, believe it, and act on it, will be arrested and convicted.

Morris B. Hoffman, *Populist Pablum*,
2 GREEN BAG 2D 97, 97 (1998).

Even the best attempt to write about the Constitution risks a powerful rebound of the founders' own unmatched and unmatchable words.

Morris B. Hoffman, *Populist Pablum*,
2 GREEN BAG 2D 97, 99 (1998).

In the past 25 years, American law schools' most prominent contribution to our public discourse has been the attempt by some of their faculty to delegitimize the belief that the country's legal order rests on neutral or shared principles.

Suzanne Garment, *Remembering the Answers*,
2 GREEN BAG 2D 109, 109 (1998).

Libertarians, among whose number I bashfully count myself, thus pretty often find themselves in the singular condition of seeming to wish for a world in which they wouldn't dream of trying to live or raise a family.

Daniel D. Polsby, *What If This Is As Good As It Gets?*,
2 GREEN BAG 2D 115, 115 (1998).

It is a fair question, at this point, for the reader to ask: who in his right mind would seriously pretend that a public goods mantle can be draped around mohair subsidies or marketing allowances for big business? Ahem. Write your congressman.

Daniel D. Polsby, *What If This Is As Good As It Gets?*,
2 GREEN BAG 2D 115, 122 (1998).

"I know no method to secure the repeal of bad or obnoxious laws so effective as their stringent execution."

Frontispiece, 2 GREEN BAG 2D (Winter 1999)
(quoting Ulysses S. Grant, *Inaugural Address*, March 4, 1869).

I wonder if *U.S. News & World Report* would consider establishing a new measure of excellence for law schools, to wit, the physical condition of its faculty.

Paul D. Carrington, *Fitness Training*,
2 GREEN BAG 2D 127, 127 (1999).

I wonder what it is that causes people to think that once individuals are elected to office it becomes permissible to do away with basic civility.

Erwin Chemerinsky, *On Being a Framers: The Los Angeles Charter Reform Commission*,
2 GREEN BAG 2D 131, 137-38 (1999).

For those of us who make a specialty of teaching and practicing in the field of federal taxation, one of the abiding frustrations is the extent to which *nonspecialists* – including lawyers, business people and other well-educated citizens – can be misled and misinformed, even lied to, about the general subject of “taxation.”

Marvin A. Chirelstein, *The Flat Tax Proposal – Will Voters Understand the Issues?*,
2 GREEN BAG 2D 147, 147 (1999).

No justice is ever in control of his intellectual offspring

Dennis J. Hutchinson, *Remembering Lewis F. Powell*,
2 GREEN BAG 2D 163, 164 (1999).

[Hamilton] pointed out the absurdity of Jefferson’s position, if taken seriously: without a declaration of war, our forces could kill, but not capture, the enemy.

Montgomery N. Kosma, *Our First Real War*,
2 GREEN BAG 2D 169, 177 (1999).

[A]re little children really frightened of the *Lemon* test? “Mommy, there’s something hiding under my bed – and it has three prongs!”

David Franklin, *Mixologists*,
2 GREEN BAG 2D 205, 207 (1999).

“The supposition of universal venality in human nature is little less an error in political reasoning than the supposition of universal rectitude.”

Frontispiece, 2 GREEN BAG 2D (Spring 1999)
(quoting Alexander Hamilton, *Federalist* No. 76).

It would be suicidal for a lawyer to adopt someone else’s persona, much less attempt to mimic the appeal of a winsome eight year old.

Steven Lubet, *Storytelling in the Caribbean*,
2 GREEN BAG 2D 239, 242 (1999).

In a market glutted with lawyers it is sophistry to argue that a viable option for employment exists outside of the academy for today’s law professors. ... [W]hatever marketable skills they may have once possessed have atrophied from nonuse.

Arthur Austin, *Law Professor Salaries*,
2 GREEN BAG 2D 243, 243 (1999).

One might have thought authority to fix the standard of weights and measures was authority to determine what the standard should be. ... If Congress is looking for something to do, it might consider at last giving us an honest-to-goodness uniform system of weights and measures.

David P. Currie, *Weights & Measures*,
2 GREEN BAG 2D 261, 263, 266 (1999).

Indeed.

Robert A. James,
Are Footnotes in Opinions Given Full Precedential Effect?,
2 GREEN BAG 2D 267, 267 (1999).

The federal and California courts have been the victim[s] of such an argument (herein the “Footnote Argument”) at least five times since 1939, and have uniformly and vigorously defended a per se rule: the size of typeface does not bear on the weight accorded the ideas embodied therein.

Robert A. James,
Are Footnotes in Opinions Given Full Precedential Effect?,
2 GREEN BAG 2D 267, 267 n.1 (1999).

Divining who will be a good judge requires an inspired vision since being a good judge, in the eyes of the wise Jethro, requires inspiration too.

JHH Weiler, *On Being a Judge – Jethro’s Lesson*,
2 GREEN BAG 2D 291, 298 (1999).

If you act out of concern that you will be reversed, you are not doing your job properly.

Stephen Reinhardt, *Good Judging*,
2 GREEN BAG 2D 299, 303 (1999).

Venality in our judges is very rare; and while the standard of judicial ability may not always be as high as we should like to see it, the provisions for review and for free and impartial hearing are such as generally to give just final judgments.

William H. Taft, *Inequalities in the Administration of Justice*,
2 GREEN BAG 2D 315, 317 (1999)
(originally published at 20 GREEN BAG 441 (1908)).

Maybe everything in history happens twice, the first time as tragedy, the second time in the movies.

John Harrison, *Would All The Laws But One Be Close Enough For Government Work?*,
2 GREEN BAG 2D 333, 335 n.7 (1999).

I am a weary pikeman on the field of litigation
in the motion-drafting phalanx of a mercenary Knight;
we do battle o'er the treaties wrought by warring corporations
in their quest to sunder market-foes with economic might.

Daniel G. Currell, *Feudal Rules of Civil Procedure*,
2 GREEN BAG 2D 343, 343 (1999).

“The chief irony of lawyerdom is that poll after poll shows that (1) the public holds lawyers in low esteem, but (2) of all the possible careers that are available, parents would prefer to have their children become lawyers ...”

Inside front cover, 2 GREEN BAG 2D (Summer 1999)
(quoting Bryan A. Garner,
A Dictionary of Modern Legal Usage 509 (2d ed. 1995)).

“For every wrong there is a remedy. ... The law never requires impossibilities ... Private transactions are fair and regular. ... The law disregards trifles.”

Frontispiece, 2 GREEN BAG 2D (Summer 1999)
(quoting California Civil Code §§ 3523, 3531, 3545, 3533).

It is impossible to know at the same time where the law is and in what direction it is moving.

Note, 2 GREEN BAG 2D at ii (Summer 1999).

What surprises me most about the anti-Holmes reaction is not that it should have taken place – that was inevitable – but that it should have been carried out with such passion. Who would devote so much energy to flogging a dead horse – let alone a dead judge?

Grant Gilmore, *Some Reflections on Oliver Wendell Holmes, Jr.*,
2 GREEN BAG 2D 379, 380 (1999).

[A]rguably the only things that count in your life are the things that happen to you or that you cause to happen before you are forty.

Grant Gilmore, *Some Reflections on Oliver Wendell Holmes, Jr.*,
2 GREEN BAG 2D 379, 383 (1999).

Holmes also kept, over a great many years, a list of the books he had read. I have never been sure how much faith and trust we should put in the book list. Suppose I kept such a list and had spent a day indulging myself in detective stories or risqué French novels. When I came to make my entry the thought might cross my mind that, *vis-à-vis* posterity, I would look better if I had spent the day reading Greek philosophy or the latest book on the forms of action in the early common law.

Grant Gilmore, *Some Reflections on Oliver Wendell Holmes, Jr.*,
2 GREEN BAG 2D 379, 383 (1999).

If I wanted, I could be interviewing for deanships the rest of my life. Once your name gets into the pool of potential deans, no lifeguard could pull it out.

Erik M. Jensen, *Dean Breck*,
2 GREEN BAG 2D 395, 397 (1999).

Federal judges, incidentally, may be the last to notice the role of exit rights; they have them, of course, but by virtue of their life tenure their employer does not.

Stephen Williams, *The More Law, the Less Rule of Law*,
2 GREEN BAG 2D 403, 405 (1999).

[H]is researches showed that Humpty Dumpty was a *testudo* or siege engine, shaped like a turtle, which was used by the Royalist forces besieging Gloucester during the seventeenth century English Civil War.

Peter Stein, *David Daube*,
2 GREEN BAG 2D 411, 412 (1999).

Actually, it is a sound working principle to prick up one's ears when coming upon an assurance like "obviously," [or] "it is clear that". It is often assertiveness making up for lack of substance. This goes for classical literature as well as contemporary.

David Daube, *The Self Understood in Legal History*,
2 GREEN BAG 2D 413, 419 (1999)
(originally published at 85 JURIDICAL REVIEW 126 (1973)).

Thus virtually all American lawyers pronounce *prima facie* to rhyme with "I'm a geisha," and for some reason disciples of the Harvard Law School's Henry Hart seem uniformly to pronounce *res judicata* to more or less rhyme with "peace rutabaga."

David Franklin, *Pardon My Law French*,
2 GREEN BAG 2D 421, 423 (1999).

[T]he Sentencing Reform Act of 1984 [is] a living argument for the proposition that when a legislative proposal for large programmatic change garners the support of both conservatives and liberals, you'd better hide the policy silver.

Suzanne Garment, *Painting a Ship with the Sentencing Commission*,
2 GREEN BAG 2D 435, 436 (1999).

John Milton, *Paradise Lost, New Business Found*

Of Man's first inconvenient slip and Fall
Upon the ice, and the party whose petition
Brought the hourly bill into the World, and all our woe,
With loss of joy, till a Judgeship may
Sustain us, and inspire more blissful work,
Sing, Heavenly Muse, that, on the secret top
Of downtown's height, didst inspire
That Partner who first sowed the holy seed
Of business and brought forth the fabled green
From out of Chaos; or, if oral argument
Delight thee more, and thy advocate that holdeth
Fast unto the oracle of God, I thence
Invoke thy aid to my most friv'lous brief,
That with no better voice will never soar
Above appellate mount, though it pursues
Things unattempted yet in prose or headnote.

Kevin Underhill,
If Great Literary Works Had Been Written By Lawyers,
2 GREEN BAG 2D 449, 450 (1999).

“To be cited by a court on an issue laden with political implications is not to have influence, but to be used.”

Frontispiece, 3 GREEN BAG 2D (Autumn 1999)
(quoting Paul D. Carrington,
Stewards of Democracy: Law as a Public Profession 70 (1999)).

Although the theories, the players, and therefore the prescriptions have changed, it seems that the one constant remains:
... we lawyers have not shown that we know what we're doing.

Viet D. Dinh, *What is the Law in Law & Development?*,
3 GREEN BAG 2D 19, 19 (1999).

The first judicial word of the Supreme Court often becomes the last political word on any particular issue.

Richard A. Epstein, *Waste & the Dormant Commerce Clause*,
3 GREEN BAG 2D 29, 31 (1999).

By the early 1880s, cigar box art had achieved a pinnacle which made it one of the greatest national art forms.

M.H. Hoeflich, *Lawyers & Cigars*,
3 GREEN BAG 2D 43, 45 (1999).

[S]overeignty survived in American usage not because it retained any analytical or descriptive power, but rather because it promised rhetorical and political advantage to those who sought to use it.

Jack N. Rakove, *Making a Hash of Sovereignty, Part II*,
3 GREEN BAG 2D 51, 58 (1999).

Hippies are not extinct.

David B. Sentelle, *Judge Dave & the Rainbow People*,
3 GREEN BAG 2D 61, 61 (1999).

[M]ost people who call you at home at night and mispronounce your name are pests.

David B. Sentelle, *Judge Dave & the Rainbow People*,
3 GREEN BAG 2D 61, 62 (1999).

It is often said that the judge carries much of his legal knowledge in the heads of his clerks.

David B. Sentelle, *Judge Dave & the Rainbow People*,
3 GREEN BAG 2D 61, 65 (1999).

Men have never shown much connection between going without shirts and looking good that way.

David B. Sentelle, *Judge Dave & the Rainbow People*,
3 GREEN BAG 2D 61, 71 (1999).

Surely Judge Posner recognizes the allocative inefficiency of discarding an apple after a single bite.

Ed Walters, *Not-So-Bright Lines*,
3 GREEN BAG 2D 93, 94 (1999).

“[T]here is the same percentage of lightweights, screwballs and boobs in the United States Senate as in my local home town or your ... State because, after all, it is a representative government.”

Inside front cover, 3 GREEN BAG 2D (Winter 2000)
(quoting Jonathan Rauch, *Government's End* (1999)
(quoting then-Senator Alan Simpson,
131 Cong. Rec. S-1797 (May 23, 1985))).

“That cats destroy some birds, I well know, but I believe this legislation would further but little the worthy cause to which its proponents give such unselfish effort. The problem of the cat versus bird is as old as time. If we attempt to resolve it by legislation who knows but what we may be called upon to take sides as well in the age-old problems of dog versus car, bird versus bird, or even bird versus worm. In my opinion, the State of Illinois and its local governing bodies already have enough to do without trying to control feline delinquency.”

Frontispiece, 3 GREEN BAG 2D (Winter 2000)
(quoting Adlai E. Stevenson, *Veto Message*, April 23, 1949).

How could peremptory challenges be so bad if so many law professors are against them?

Morris B. Hoffman, *Peremptory Challenges*,
3 GREEN BAG 2D 135, 136 (2000).

Imagine trying cases where we take the first seven fair and impartial jurors and let them sit on the jury. You can do it.

Morris B. Hoffman, *Peremptory Challenges*,
3 GREEN BAG 2D 135, 140 (2000).

Like the famous fortune cookie trick, adding “in Cyberspace” was used to spice up otherwise dull legal topics.

Timothy Wu, *When Law & the Internet First Met*,
3 GREEN BAG 2D 171, 172 (2000).

Whatever else it may do to small children to bring them to a hippie gathering in the woods and let them play naked for a few weeks, it does not make them unhappy.

David B. Sentelle, *Judge Dave & the Rainbow People, Part II*,
3 GREEN BAG 2D 179, 183 (2000).

The independent counsel law shows that when you start to short-circuit the Constitution, you have very undesirable results.

Edwin Meese III, *Reagan's Legal Revolutionary*,
3 GREEN BAG 2D 193, 194 (2000).

I'd generally put my bets on the American literary canon, when the alternative is the canon of constitutional law – even, I have to say, those parts of the canon written by Justice Brennan acting as romantic hero.

Mark Tushnet,
Resolving the Paradox of Democratic Constitutionalism?,
3 GREEN BAG 2D 225, 230 (2000).

Reviewers often think that the author should have written an entirely different book, and authors equally often believe that reviewers have utterly misunderstood them. Most of these disputes are of little interest except to the combatants themselves, although the resulting fray may offer a certain amusement as a kind of spectator sport.

Daniel Farber, *Green Scholarship – An Oxymoron?*,
3 GREEN BAG 2D 231, 231 (2000).

When you're witness and judge, keep this adage in view—
If you say so yourself, to thine own self be true.
And if someone should dare to suggest you have lied,
Then your own credibility you can decide.

Robert E. Rains, *The Judge Is Always Right*,
3 GREEN BAG 2D 237, 239 (2000).

The Sixteenth Amendment (hereinafter the “Sixteenth Amendment”) to the United States Constitution (hereinafter the “Constitution”) was not approved by Congress until 1909 and was ratified only in 1913. As a result, there were no cases construing the Sixteenth Amendment in the nineteenth century. My research has been exhaustive, and I’m quite sure I’m right about this.

Erik M. Jensen, *19th Century 16th Amendment Jurisprudence*,
3 GREEN BAG 2D 241, 241 (2000) (footnotes omitted).

“The law is not a series of calculating machines where definitions and answers come tumbling out when the right levers are pushed.”

“[G]rant the preliminary injunction
if but only if $P \times H_p > (1 - P) \times H_d$.”

Frontispiece, 3 GREEN BAG 2D (Spring 2000)
(quoting William O. Douglas,
The Dissent, a Safeguard of Democracy,
32 J. AM. JUDIC. SOC. 105 (1948), and
American Hosp. Supply v. Hospital Products,
780 F.2d 589 (7th Cir. 1986) (Posner, J.)).

Most new associates are in their twenties. These are the best years for doing stupid, but quite enjoyable, things. They should not be spent in tall buildings reading through boxes of documents.

Bob Berring, *Salary Inflation & the Deal with the Devil*,
3 GREEN BAG 2D 247, 249 (2000).

[T]hat pot of gold newly bestowed upon big-firm associates may turn out instead to be a bowl of Lucky Charms eaten at their desks at 1 a.m. ... without milk ... while proofing a memo no client will ever read.

Christopher P. Bowers & Neil M. Richards,
Sallie Mae, the Gunderson Effect, & My Plumber,
3 GREEN BAG 2D 251, 251 (2000).

So the next time you're deposing a firefighter or police officer, remember that he or she may make less than you do on an hourly basis, but not by much.

Christopher P. Bowers & Neil M. Richards,
Sallie Mae, the Gunderson Effect, & My Plumber,
3 GREEN BAG 2D 251, 253 (2000).

The gulf between what academics say to their colleagues (through scholarship) and their students (through casebooks) is truly remarkable.

Neal Devins, *How Constitutional Law Casebooks Perpetuate the Myth of Judicial Supremacy*,
3 GREEN BAG 2D 259, 260 (2000).

It seems that law review editors believe that an article establishes the truth of a point once its author points to a page in a book that says something similar to his or her claim.

Gerald N. Rosenberg,
Across the Great Divide (Between Law & Political Science),
3 GREEN BAG 2D 267, 271 (2000) (quoting Kenneth Ward).

The tendency for legal academics to believe that they are the great public intellectuals of the U.S., qualified to comment on any topic, appears to run deep. To the social scientist trained in the field, however, their comments often come across at best as “scholarship lite,” and at worst as policy preferences masquerading as neutral opinion. ... To many political scientists the motto of the great American Law School is, “where arrogance meets ignorance.”

Gerald N. Rosenberg,
Across the Great Divide (Between Law & Political Science),
3 GREEN BAG 2D 267, 272 (2000).

[L]aw is the only field in which the students edit the journals and the professors grade the exams – now what does *that* suggest about the competence of law professors?

Suzanna Sherry, *The Law Professor as Schizophrenic*,
3 GREEN BAG 2D 273, 276 (2000).

I had always supposed that the worst ... settlement conferences were those involving domestic disputes. As a matter of fact, I still suppose that. But the next-to-the-worst type of settlement conference I now know to be a settlement conference involving litigation over a hippie reunion.

David B. Sentelle, *Judge Dave & the Rainbow People, Part III*,
3 GREEN BAG 2D 285, 290 (2000).

[I]gnorance brings bliss only so long as ignorance persists.

David B. Sentelle, *Judge Dave & the Rainbow People, Part III*,
3 GREEN BAG 2D 285, 292 (2000).

The difficulty that judges have assessing the relative merit of opposing experts is indeed a great problem in law. And it's going on now in the *Microsoft* case, which has raised many complicated issues. I sympathize; I pity the poor judges.

Merton H. Miller & Keith Sharfman,
The Economic Expert Witness,
3 GREEN BAG 2D 297, 300 (2000).

They think: "Oh, these economists; they're such liars. They'll say anything that their sponsors want them to say." It actually works the other way around. The sponsors go out and pick people whose views they already know.

Merton H. Miller & Keith Sharfman,
The Economic Expert Witness,
3 GREEN BAG 2D 297, 300 (2000).

I used to think the federal courts had excessive procedures. But when I got involved in this regulatory hearing, I really saw an *Alice in Wonderland*-type situation.

Merton H. Miller & Keith Sharfman,
The Economic Expert Witness,
3 GREEN BAG 2D 297, 302 (2000).

You guys in law school have a three-year course, but you only have two years of material! So they use the third year for these seminars.

Merton H. Miller & Keith Sharfman,
The Economic Expert Witness,
3 GREEN BAG 2D 297, 306 (2000).

Readers of the *Green Bag* who have benefited in the past from Chief Justice Fuller's recipe for Christmas eggnog, will be doubly grateful for the Quoit Club formula for Marshall's potent rum punch.

Jean Edward Smith, *Sallie E. Marshall Hardy's "John Marshall"*,
3 GREEN BAG 2D 309, 310 (2000).

Practising lawyers of today would be surprised at the many opportunities for doing business if they were transported, for example, in the 13th or 14th century.

Knut Wolfgang Nörr, *Plenty of Work in 1280*,
3 GREEN BAG 2D 329, 329 (2000).

Intellectual Property

Texas Pig Stands, Inc. v. Hard Rock Cafe Int'l, Inc.,
951 F.2d 684, 692-93 (5th Cir. 1992)

Defendant liable for infringing trademark for a Tennessee dish of barbecued pig meat on a wheat or white bun, because "pig sandwich" has achieved secondary meaning – at least in Texas.

Lyons Partnership v. Giannoulas,
179 F.3d 384, 385-87 (5th Cir. 1999)

Parody performed at various evening sporting events in which the Famous Chicken inflicted physical abuse upon Barney, the lovable purple dinosaur, not only failed to infringe upon plaintiff's trademark, but quite arguably constituted a sophisticated critique of society's acceptance of such a ubiquitous and insipid creature.

Hormel Foods Corp. v. Jim Henson Prods., Inc.
73 F.3d 497, 500-01 (2d Cir. 1996)

Hormel, producer of the luncheon meat SPAM, is not entitled to enjoin Muppets character "Spa'am" under theory of trademark

infringement or dilution. Court did not accept Hormel's concern that SPAM sales will drop off if its "processed, gelatinous block" is linked with "evil in porcine form," for Spa'am is not the boarish Beelzebub that Hormel seems to fear. Given the countless jokes played off the public's unfounded suspicion that SPAM is a product of less than savory ingredients, one might think Hormel would welcome the association with a genuine source of pork.

James C. Ho, *Green Bag Digests*,
3 GREEN BAG 2D 341, 343-44 (2000).

"Suppose we pass a lot of laws. Do we get praised? Certainly not. We then get denounced by everybody for being a 'Meddlesome Congress' and for being a 'Busybody Congress.' Is it not so?"

"But suppose we take warning from that experience. Suppose that in our succeeding session we pass only a few laws. Are we any better off? Certainly not. Then everybody ... denounces us for being an 'Incompetent Congress' and a 'Do-Nothing Congress.'"

"We have no escape – absolutely none. We have no chance – absolutely no chance. The only way for a Congressman to be happy is to realize that he has no chance."

Frontispiece, 3 GREEN BAG 2D (Summer 2000)
(quoting Speaker Tip O'Neill (D. 1977-1987) in
The New Federalist Papers 108-09 (1988)
(quoting Speaker Nicholas Longworth (R. 1925-1931))).

"Should anal retentive be hyphenated?"

In Memoriam [Charles Alan Wright],

3 GREEN BAG 2D 350, 351 (2000)
(quoting *Texas Law Review* mug).

Allowing states to restrict the flow of garbage at their borders would be [an] exercise in wasteful lawmaking.

Jonathan H. Adler,
Waste & the Dormant Commerce Clause – A Reply,
3 GREEN BAG 2D 353, 362 (2000).

The relationship between an asset and a debt is like that of matter and anti-matter. ... Like matter and anti-matter, ... they annihilate each other.

Stephen B. Cohen, *The Tax of Physics, the Physics of Tax*,
3 GREEN BAG 2D 375, 378 (2000).

[F]rom the legal point of view *A Midsummer Night's Dream* is nothing but a comedy of errors. You may be tempted to say all's well that ends well. Yet I find the play really quite subversive, for it teaches that it is a good thing for both citizens and judges to flout the law – that law itself is much ado about nothing, a mere tempest on a midsummer night.

David P. Currie, *A Midsummer Night's Dream – The Legal Issues*,
3 GREEN BAG 2D 381, 386-87 (2000).

Harry Truman's Vice-President, Alban Barkley, once defined a bureaucrat as "A Democrat who has a job that some Republican wants."

Abner Mikva, *How Agencies Rule Their Turf:
or, The Real Limits on Agency Power*,
3 GREEN BAG 2D 389, 392 (2000).

It is becoming widely known that a computer's DELETE key represents an elaborate deception. The deception is pure, and inheres in the key's name: When the DELETE key is used, nothing is deleted.

James M. Rosenbaum, *In Defense of the DELETE Key*,
3 GREEN BAG 2D 393, 393 (2000).

Into this classic legal environment comes the computer. It never forgets, and never forgives.

James M. Rosenbaum, *In Defense of the DELETE Key*,
3 GREEN BAG 2D 393, 395 (2000).

In case you've ever wondered, it's a lot easier to restore order in a courtroom from a high bench with a U.S. Marshal in attendance than it is standing in the mud in a field full of hippies.

David B. Sentelle, *Judge Dave & the Rainbow People, Part IV*,
3 GREEN BAG 2D 405, 405 (2000).

In general, as a lawyer friend of mine once said, "Getting into litigation without a lawyer is a lot like having surgery without a physician."

David B. Sentelle, *Judge Dave & the Rainbow People, Part IV*,
3 GREEN BAG 2D 405, 411 (2000).

And I say this fully cognizant of the fact that, as you know, NYU Law School benefits in a way from the rankings because by the most prominent ranking we're clearly one of the eight schools that can claim to be in the top three. But you will never hear me invoke any of those things, since I'm not interested in where we rank *vis a vis* other law schools.

John Sexton, *Legal Education, Today & Tomorrow*,
3 GREEN BAG 2D 417, 420 (2000).

AIGs [asymmetric information games] are the source of comedy and tragedy in Shakespearean plays and of intrigue in Sherlock Holmes adventures.

Peter H. Huang,
Still Preying on Strategic Reputation Models of Predation,
3 GREEN BAG 2D 437, 439 (2000).

NEW YORK – The long-awaited ranking of national news magazines by graduate schools deans was released today amid much fanfare. Popular newsweekly U.S. News & World Report dropped from 3rd to dead last in the survey, which is commonly used by readers across the country when deciding which magazines to subscribe to.

U.S. News associate editor R.B. Trary condemned the rankings in harsh terms. “It’s absurd to think that we could drop from being in the top three to last in the space of a single year. Just because we’ve had a few problems getting our facts straight is no reason to punish us this way.”

The rankings, which are put together annually by the deans of graduate schools across the country, have been challenged before. Said Time columnist Elwood Witless: “The use of punctuation-to-page ratio by English departments [in the rankings] as a proxy for proper grammar is inappropriate. It unfairly singles out those of us who don’t use semicolons.” Witless also argued that a significant part of the American public doesn’t care about proper grammar, and that newsmagazines have to accommodate their wishes.

The annual survey is widely reported - and feared - by news magazines, because a poor ranking can have a significant effect on subscriptions and on advertising revenue. Last year, prestigious Harvard University pulled its multi-million dollar ad campaign (“We’re Famous”) from Newsweek after the Economist displaced Newsweek as #1 in the rankings.

The Economist remained in the top spot for the second year in a row. Some American magazines criticized the rankings for giving an unfair advantage to foreign publications, which are often insulated from effective competition in their home countries. “If you can charge an outrageous price at home, you can afford to pay your reporters more, and reporter salaries are one of the things the Deans’ survey measures,” said one industry analyst who refused to be identified.

Not everyone is unhappy, though. Niles Chamberlain Fauntleroy, a member of the board of directors of the Economist, said he thought the rankings reflected healthy competition. “Let a thousand surveys bloom,” he said. “The American public is smart enough to see through the methodological absurdities of any one ranking.”

Retorted Mr. Trary: “He hasn’t spent much time in the States, has he?”

Mark Lemley, *Rank*,
3 GREEN BAG 2D 457, 457-58 (2000)
(copyright 2000 Mark A. Lemley).

“[W]hen you have concluded your visit to the [deserted Church of the Holy Scripture] you should sit for a while very quietly in the hollow way of Park Lane, for if you are there at the right time of the day and year you will hear the turtle doves calling gently in the trees above – could it be that they are telling you something about words of limitation, and not of purchase?”

Frontispiece, 4 GREEN BAG 2D (2000)
(quoting A.W. Brian Simpson,
*Politics and Law in Elizabethan England: Shelley’s Case (1581) in
Leading Cases in the Common Law (1995)*).

There is, of course, a fairly extensive economic literature regarding optimum parking policies. ... In the grand tradition of interdisciplinary legal work, however, I will strive to ignore this literature as much as possible.

Ashutosh Bhagwat,
Parking at BART, or Economics & Its Discontents,
4 GREEN BAG 2D 7, 7-8 n.2 (2000)
(numerous citations omitted).

This argument, it must be conceded, ignores another, distinctly Californian irrationality: an extraordinary hatred of walking, as demonstrated by drivers spending 15 minutes circling, and waiting, in parking lots to get the parking spot closest to the entrance, rather than park at the back of the lot and walk 5 minutes in perfect, sunny, 70-degree weather.

Ashutosh Bhagwat,
Parking at BART, or Economics & Its Discontents,
4 GREEN BAG 2D 7, 12 n.29 (2000).

We are reminded of Adlai Stevenson's remark that journalists – unlike lawyers and judges? – separate the wheat from the chaff and then print the chaff.

Danny J. Boggs & Brian P. Brooks,
Unpublished Opinions & the Nature of Precedent,
4 GREEN BAG 2D 17, 19 n.11 (2000).

Justice Souter has the innate caution of a man who was never taken in by this fad they call "electricity."

John P. Elwood, *What Were They Thinking:
The Supreme Court in Revue, October Term 1999*,
4 GREEN BAG 2D 27, 32 (2000).

After the pre-1992 and -1996 predictions of [Supreme Court retirements] fizzled, I am beginning to suspect that when George P. Bush runs for president in 2032 on the Zorg Party ticket, delivering his acceptance speech to a roomful of giant mutant hamsters from the deep-space mining colony of Arbok-7, pundits will still be saying that the Next Election Is About The Supreme Court. (And once again Rehnquist, Stevens, and O'Connor will fail to retire.)

John P. Elwood, *What Were They Thinking: The Supreme Court in Revue, October Term 1999*,
4 GREEN BAG 2D 27, 28 (2000).

Savvy Lexis users know the quickest way to find Justice Thomas's opinions online is to search for "willing to reconsider" w/5 "in an appropriate case." ... His standing in the academic community has witnessed a ... boost: Whereas in the past he was viewed as a dangerous extremist and Scalia clone, he is now viewed simply as a dangerous extremist.

John P. Elwood, *What Were They Thinking: The Supreme Court in Revue, October Term 1999*,
4 GREEN BAG 2D 27, 34 (2000).

"For your solicitude concerning my very culpable son, & your care of him, accept my sincere & grateful acknowledgments. I wish fervently, not entirely without hope, that your anticipations respecting him may be verified by the event."

John V. Orth, *John Marshall & "Debts Which Ought Never to Have Been Contracted"*,
4 GREEN BAG 2D 49, 55 (2000)
(quoting Chief Justice John Marshall, Letter to Professor Joseph G. Cogswell, Harvard College (May 29, 1815)).

I am longer a *real* judge, having given up the search for truth ... to search for error.

Pamela Ann Rymer, *The Trials of Judging*,
4 GREEN BAG 2D 57, 57 (2000).

Being a federal district judge means so many things. It means exposure to matters of great diversity and dimension, many unfamiliar from our days at the bar – for example, things such as bankruptcy, including your own.

Pamela Ann Rymer, *The Trials of Judging*,
4 GREEN BAG 2D 57, 57 (2000).

You may not know that when Freud died, he went to heaven and was effusively welcomed at the pearly gates. The gatekeeper explained that they were glad he had arrived because his professional services were needed. Freud responded that of course he would be happy to help in any way he could, but who in heaven would need his services? The gatekeeper confided, “It’s God.” “God?” said Freud, “whatever could be wrong with God?” “Well,” the gatekeeper replied, “he thinks he’s a federal judge.”

Pamela Ann Rymer, *The Trials of Judging*,
4 GREEN BAG 2D 57, 57-58 (2000).

“There is no guarantee of justice except for the personality of the judge.”

Pamela Ann Rymer, *The Trials of Judging*,
4 GREEN BAG 2D 57, 58 (2000) (quoting Eugen Erlich).

Although Frankfurter had listed character as one of his criteria for a Holmes clerkship, a list of the clerks whom Frankfurter selected for Holmes indicates that, at least until Holmes retired from active judicial service midway through the 1931 Term, two other criteria were perhaps more “indispensable.” One criterion was membership on the *Harvard Law Review*; the other was being a white Anglo-Saxon Protestant.

G. Edward White, *The Alger Hiss Case*,
4 GREEN BAG 2D 63, 70 (2000).

[T]here may still be a possibility of scholarly life after a long (by modern standards) deanship.

Francis A. Allen, *Law & the Waning of Democratic Values*,
4 GREEN BAG 2D 85, 86 (2000).

On one occasion in some bewilderment I asked a young faculty member of an eastern law school what social impact could be expected from the work she and others were doing. The answer was: “We aren’t concerned with that. Of course it’s just a game. But it’s a game that only the highly talented can play.” Fortunately this level of superciliousness is not often encountered.

Francis A. Allen, *Law & the Waning of Democratic Values*,
4 GREEN BAG 2D 85, 92 (2000).

William Shakespeare, *A Midsummer Night's Hearing Before the U.S. Patent Examiner*

Examiner. What hast thy client wrought,
 That thou dost come before this office arm'd
 With sharpest wit of lawyers gathered in
 Thy briefs abundant?

Lawyer. 'Tis not in Heaven, Earth, nor prior art,
 This boxlike element ii that pivot'ly connects
 To molding box by means of pin 13 upon't.
 Behold! Yon lever 3, with spring 19,
 Doth give resilient opposition ere it move,
 And on this basis, prithee, you'll approve

Kevin Underhill,
If Great Literary Works Had Been Written By Lawyers, Part Two,
4 GREEN BAG 2D 119, 121 (2000).

“The meek shall inherit the earth, but not the mineral rights.”
 Frontispiece, 4 GREEN BAG 2D (2001)
(quoting Robert Lenzner, *The Great Getty* 93 (1985)
 (quoting J. Paul Getty)).

“The Buddha knows that zealotry turns the grasshopper into
an empty rock.”

Note, 4 GREEN BAG 2D at ii (Winter 2001)
(quoting Arthur Austin, *The Dark Side of the Second Amendment*,
4 GREEN BAG 2D 229, 231 (2001)).

“The Constitution stops at the hearing room door. There are no rules of evidence like in a trial. It’s not going to be fair or fun. There will be hearsay questions, irrelevant questions and even some stupid questions. Be ready for all of them.”

The Gantlet, 4 GREEN BAG 2D 123, 124 (2001)
(quoting *A Survivor’s Guide for Presidential Nominees* 75 (2000)
(quoting Tom C. Korologos)).

As a working judge, I know the [New York] Times has strengthened its defense against a hostile work environment lawsuit. But as a person, I wonder if I’d like to work there.

James M. Rosenbaum, *In Defense of the Hard Drive*,
4 GREEN BAG 2D 169, 170 (2001).

I served on the FCC for a brief time ... and those years seemed pretty exciting ... Of course, for academics the threshold level for excitement is quite low; as Robin Williams quipped: “What does the snail say when it rides on the turtle’s back? Wheee.”

Glen O. Robinson, *Reed Hundt, Revolutionary Manqué*,
4 GREEN BAG 2D 197, 198 & n.3 (2001).

When I was on the [Federal Communications] Commission I once took issue with bureau staff members over a draft report that seemed to me verbal overkill. I suggested that they reduce the verbosity of the report. A week later the report reappeared on the weekly agenda; it was longer than before. My legal advisor, Dan Polsby, explained: “They are punishing you.”

Glen O. Robinson, *Reed Hundt, Revolutionary Manqué*,
4 GREEN BAG 2D 197, 200 n.8 (2001).

“A government which robs Peter to pay Paul can always depend on the support of Paul.”

Frontispiece, 4 GREEN BAG 2D (2001)
(quoting George Bernard Shaw,
Everybody's Political What's What? ch. 30 (1944)).

Although the rat-lawyer equation is recent, the image of lawyers as a pestilential swarm has long been encoded in our culture.

Marc Galanter, *Lawyers in the Laboratory*,
4 GREEN BAG 2D 251, 254 (2001).

Most people think derivatives are complex, but view television as simple. Our view is the opposite: derivatives are relatively straightforward, but television is multifaceted.

Peter H. Huang, Kimberly D. Krawiec & Frank Partnoy,
Derivatives on TV,
4 GREEN BAG 2D 257, 257 (2001).

[O]n the whole, the rest of the world have been very lucky that we have had you as the next empire after the British empire. ... It's just a pity that you don't get as much of the rest of the world as we get of the United States.

Michael Kirby, *Think Globally*,
4 GREEN BAG 2D 287, 294 (2001).

There are lies, damn lies, and statistics. Add one more: the NYU alumni magazine.

Brian Leiter, *The Law School Observer*,
4 GREEN BAG 2D 311, 311 (2001).

All in all, “Indiana” lacks the depth of “California,” the quiet wisdom of “Wisconsin” and the unfailing honesty of the beautiful and frightening “Illinois” – a work which demonstrates that he has indeed been touched, at times, by the gentle hand of God. But not here. As one reviewer poignantly put it, “‘The Indiana Rules of Court’ are both difficult to forget and hard to remember.”

Lolabelle, *Hard to Remember and Difficult to Forget*,
4 GREEN BAG 2D 331, 332 (2001).

See also AKA, 4 GREEN BAG 2D 342, 342 (2001)
(identifying “Lolabelle” as the *nom de plume* of Amber Achilles,
Notre Dame Law School class of 1999).

Quiquid latine dictum sit altum viditur.

Frontispiece, 4 GREEN BAG 2D (Summer 2001).

“Of the schools that are ranked in the top 25 by *U.S. News*, which
3 [are the] most overrated ... and why?”

Ho-Hum, 4 GREEN BAG 2D at ii (Summer 2001)
(quoting www.utexas.edu/law/faculty/bleiter/overrated.html).

“Future historians of science and law may well date the
beginning of the end of fingerprinting to the opening night of the
third season of “The Sopranos.”

Fingerprints, 4 GREEN BAG 2D 338, 338 (2001)
(quoting Simon Cole, *The Myth of Fingerprints*,
N.Y. TIMES (May 13, 2001)).

“That student is wise who remembers that the bow which is never unstrung loses its elasticity. It is possible, however, to make one’s recreations contribute even more directly to furthering the object of one’s labors, if they approach it from a different side.”

Summer Reading, 4 GREEN BAG 2D 340 (2001)
(quoting *Summer Reading for Lawyers*,
1 LAW BOOK NEWS 199 (1894)).

Indeed, even though Mickey Mouse has not been in a movie for years, he remains eager to do another picture. And the best part, from Disney’s perspective, is that Mickey is still under contract.

Douglas G. Baird, *Does Bogart Still Get Scale?*
Rights of Publicity in the Digital Age,
4 GREEN BAG 2D 357, 358 (2001).

Garbage is garbage. But the history of garbage – that’s scholarship!

Douglas G. Baird, *Does Bogart Still Get Scale?*
Rights of Publicity in the Digital Age,
4 GREEN BAG 2D 357, 361 (2001).

[In granting certiorari in *Bush v. Gore*] the Justices probably were hoping they could bring to the presidential election the feeling of goodwill and national consensus that they had brought to the field of abortion.

John P. Elwood, *What Were They Thinking?*
The Supreme Court in Revue, October Term 2000,
4 GREEN BAG 2D 365, 366 (2001).

The decision [in *PGA Tour, Inc. v. Martin*] will most hearten that class of hard-core litigants who will go to court quicker than the average prisoner or even Scientologist. I'm talking, of course, about parents.

John P. Elwood, *What Were They Thinking: The Supreme Court in Revue, October Term 2000*,
4 GREEN BAG 2D 365, 370 (2001).

Nowadays the only thing “wholly outside the power of th[e] Court” is the movement of tectonic plates, and even that probably won't survive next Term's *In re Gondwanaland*.

John P. Elwood, *What Were They Thinking: The Supreme Court in Revue, October Term 2000*,
4 GREEN BAG 2D 365, 375 (2001).

Next there is what I call the “bad hair day” school, people who think that while the Court's performance was unsound, it demonstrated not a basic flaw in the institution, but rather an understandable if perhaps regrettable response on the part of five justices to an almost overwhelming press of circumstances

Linda Greenhouse, *Learning to Live with Bush v. Gore*,
4 GREEN BAG 2D 381, 383 (2001).

“The manuscript unfortunately was abandoned. I use the word in the sense of lost or mislaid.”

John V. Orth,
What's Wrong with the Law of Finders & How to Fix It,
4 GREEN BAG 2D 391, 399 (2001) (quoting Oscar Wilde).

“My Dear Hugo: I was sorry to hear that you had the flu. But I am glad that you are taking care of yourself. Take good care, lie low, and forget about these dull tax cases – which are now droning on and on ... Ever yours, Bill.”

Neil M. Richards, *The Supreme Court Justice & “Boring” Cases*,
4 GREEN BAG 2D 401, 404, 406 (2001)
(quoting Justice William O. Douglas, and reporting that Chief Justice Harlan Fiske Stone eventually assigned Douglas to write opinions in three of the four “dull tax cases”).

Of course, there is an alternative to government regulation in cyberspace just as there is an alternative to government regulation in real space.

Terence P. Ross, *Children of the Revolution*,
4 GREEN BAG 2D 453, 456 (2001).

12. The Magna Carta says nothing about:

- ___ a. Campaign finance reform.
- ___ b. The right of old people to free prescription drugs.
- ___ c. The right to a jury trial.
- ___ d. All of the above.
- ___ e. a and b above.

Morris B. Hoffman,
Test Your Knowledge of Jury History & Procedures,
4 GREEN BAG 2D 461, 463 (2001)
(the answer may be found at the bottom of page 62).

“[R]ather than move on with his life, Plaintiff has deliberately and knowingly engaged the federal judicial system to vent his frustrations and blame others for his own shortcomings while enrolled at the Law School.”

Ho-Hum, 5 GREEN BAG 2D at ii (Autumn 2001)
(quoting *Shlikas v. Wake Forest Univ.*,
1999 WL 1939241, at *3 (M.D.N.C.)
(quoting school’s motion to sanction former law student)).

Chief Justice William Rehnquist leads the caroling at the Supreme Court’s annual Christmas party. Shortly before one such party, a newly-appointed Justice Souter encountered a law clerk who asked if he would sing. Souter deadpanned: “I have to. Otherwise, I get all the tax cases.”

Taxing Cases, 5 GREEN BAG 2D 2, 3 (2001)
(quoting Paul Caron, *Tax Myopia, Or
Mamas Don’t Let Your Babies Grow Up To Be Tax Lawyers*,
13 VA. TAX REV. 517, 525 (1994)
(quoting Paul M. Barrett, *Independent Justice*,
WALL ST. J., Feb. 2, 1993, at A1)
(quoting Justice David Souter)).

“Part I sets out the historical relationship between student-run law reviews and the academy in order to make certain obvious and noncontroversial claims that are both abstruse and well-cited; it has been omitted for clarity’s sake. Part II defends the traditional imperatives of the law review article format, its hyper-prolixical verbosity and its footnote-heavy citation style; it has also been removed for lack of support. Part III argues for a vision of bluebooking as modality encoding via citation uniformity, thus enabling a new hermeneutics of meaning through reader decoding. This part is so dense and yet flaky it has swallowed itself in a

Dough-Boy vortex and is now believed to be part of a legal theory pound cake, inferentially observed only by occasional citation from authors attracted to its buttery goodness. Part IV is the only original thought in this whole Aside, but, in the tradition of legal work generally, it is both underdeveloped and fairly insignificant. It more or less amounts to arguing that web pages that seek to replace law reviews by publishing scholarly work on the internet tend to suck.”

Aside, 5 GREEN BAG 2D 3, 3-4 (2001)
(quoting *Aside, Challenging Law Review Dominance*,
149 U. PA. L. REV. 1601 (2001)).

The Internal Revenue code, like the nineteenth century British novel, appears increasingly uncomfortable with the studied ambiguity that Section 306 and Hester Prynne represent.

Stephen B. Cohen,
Hester Prynne, Lydia Bennet & Section 306 Stock,
5 GREEN BAG 2D 5, 9 (2001).

[A]n incompetent lawyer is far less dangerous than a judicial bully.

Steven Lubet, *Bullying from the Bench*,
5 GREEN BAG 2D 11, 16 (2001).

[A] banker [i]s “a fellow who lends you his umbrella when the sun is shining and wants it back the minute it begins to rain.”

Heidi Mandanis Schooner,
Popular Images of Bankers Reflected in Regulation,
5 GREEN BAG 2D 27, 28 (2001) (quoting Mark Twain).

Parker deserves better from history because he represents a principled, dignified, and scholarly approach to public service that has rarely been rewarded with the laurels of a national party nomination.

Leslie Southwick,
A Judge Runs for President: Alton Parker's Road to Oblivion,
5 GREEN BAG 2D 37, 38 (2001).

One senior counsel advised me when I was starting out: “in the United States counsel treat the judge like dirt. In Canada judges treat counsel like dirt”.

John deP. Wright, *Ontario Divorce As It Once Was*,
5 GREEN BAG 2D 69, 70 (2001).

[M]ore than half of what appears in top law reviews purporting to deal with philosophy or philosophical topics is sophomoric, the kind of writing that would prevent an undergraduate from getting into a PhD program.

Brian Leiter, *The Law School Observer*,
5 GREEN BAG 2D 101, 101 (2001).

[S]trangely, ... many human beings do not want to go to Hell, even if Holmes's heirs are as eager to help them down that path as was Holmes himself.

Robert Henry, *The Value(s) of Oliver Wendell Holmes, Jr.*,
5 GREEN BAG 2D 105, 114 (2001).

Congress should zero out the budget line for Supreme Court law clerks.

Louis Michael Seidman, *Eavesdropping on the Justices*,
5 GREEN BAG 2D 117, 127 (2001).

“An insight into the law. Here goes. You don’t know this, but at the Bar Association of the City of New York, the premier bar association in this great country of ours, on the fourth floor outside the library, sits a sculpture, a sculpture that won a competition sponsored by that august body. It’s a marble rendering of a hand holding a ball and it’s called ‘A Tribute to Champions.’ By Charles Grossman, whoever he is. Now the good part. This sculpture could be the hand of God, holding the Earth, or something like that, or it could be something about man’s mastery of the most perfect form, the sphere. But this is where lawyers come to spend their time trying to screw over other lawyers, right? So if you consider that, and you consider how the hand is holding the sphere, with the fingers tucked under, like a fist, and the thumb snaked around the side, you will realize that this is the grip for a knuckleball, the pitch that is all about deception and confusion and throwing people off their stride. Then you understand two things. Why the sculpture won, and how little control anyone in law has over the ultimate result of a lawsuit, because how the knuckleball works depends on the turbulence of the atmosphere more than the strength or skill of the pitcher.”

Michael Parish, *Fred Gucci*,
5 GREEN BAG 2D 129, 132 (2001) (quoting Fred Gucci).

“Whene’er you speak, remember every cause
Stands not on eloquence, but stands on laws.
Pregnant in matter, in expression brief,
Let every sentence stand in bold relief!”

Inside front cover, 5 GREEN BAG 2D (Winter 2002)
(quoting Joseph Story, *Advice to a Lawyer*,
5 GREEN BAG 37 (1893)).

“Oral advocacy is no great mystery. You don’t even have to be a lawyer to get experience in oral advocacy – all you have to do is get married.”

Frontispiece, 5 GREEN BAG 2D (Winter 2002)
(quoting William H. Rehnquist, *Oral Advocacy*,
27 S. TEX. L. REV. 289, 290 (1986)).

“The city-dweller or poet who regards a cow as a symbol of bucolic serenity is indeed naive. From the udders of that placid animal flows a bland liquid indispensable to human health but often provoking as much human strife and nastiness as strong alcoholic beverages.”

Ho-Hum, 5 GREEN BAG 2D at ii (Winter 2002)
(quoting *Queensboro Farms Products, Inc. v. Wickard*,
137 F.2d 969, 974 (2d Cir. 1943)).

“What am I gonna do? Am I gonna have to go out and arrest five million people if they don’t pay their tax bill?”

Pay as You Go, 5 GREEN BAG 2D 138, 138 (2002)
(quoting *Financial Times* columnist Amity Shlaes
quoting the late Treasury Secretary Robert Morgenthau).

Quick, who was the tenth President of the United States?

David P. Currie, *His Accidency*,
5 GREEN BAG 2D 151, 151 (2002).

[W]e should ... encourage reliance upon the syllabus, rather than on the Court’s increasingly long-winded, turgid opinions. Ideally, anything *not* found in the syllabus should be presumptively classified as dictum.

Gil Grantmore, *The Headnote*,
5 GREEN BAG 2D 157, 158 (2002).

[T]he footnote is “a dangerous inconsequentiality, infecting the purity and coherence of legal argument.”

Gil Grantmore, *The Headnote*,
5 GREEN BAG 2D 157, 158-59 (2002)
(quoting Jack Balkin, *The Footnote*,
83 NW. U. L. REV. 275, 277 (1988)).

Everything that really needs to be said can be said in a page or so.

Gil Grantmore, *The Headnote*,
5 GREEN BAG 2D 157, 161 (2002).

In 1970, two attorneys hiked six miles into the woods to deliver a request for a temporary injunction to Justice Douglas. After arguing the merits of their case the attorneys left the application with Justice Douglas, who told them he would make a decision and leave the result on a tree stump the following day. They found a handwritten note denying the request on the tree stump the next day.

Cynthia J. Rapp,
In Chambers Opinions by Justices of the Supreme Court,
5 GREEN BAG 2D 181, 184 (2002).

[T]eaching is teaching, and it is not always associated so tightly with the front on which one is making one's most serious contribution as to make it worth converting the products of the one enterprise into products of the other.

Jeremy Waldron, *A Life of Their Own*,
5 GREEN BAG 2D 219, 222 (2002).

Since I will have to fulfill my academic duties and disagree, there are two strategies that I can follow. One would be to pick out the details of the argument that go wrong and offer crushing logical refutations. But that is no fun. It is much more satisfactory to follow the base practice of complaining about the book that [the author] did not write. So let me neglect the arguments he did make and take up some arguments that he did not make.

L.H. LaRue, *The Self That Governs*,
5 GREEN BAG 2D 225, 228 (2002).

“I am pleased to notice the change and improvement in your magazine.”

Inside front cover, 5 GREEN BAG 2D (Spring 2002)
(quoting a dean of a Western Law School,
23 GREEN BAG no. 4, p. iv (April 1911)).

“Good judgment comes from experience, and a lot of that comes from bad judgment.”

Frontispiece, 5 GREEN BAG 2D (Spring 2002)
(quoting Will Rogers).

“A strong commitment to an issue does not necessarily ensure that one will act in the best interests of the intended beneficiaries. Strong commitment leads to zealotry; zealotry leads to crusades; crusades leave unintended victims.”

Ho-Hum, 5 GREEN BAG 2D at ii (Spring 2002)
(quoting *T.W. v. Brophy*,
954 F. Supp. 1306, 1310 (E.D. Wis. 1996)).

“This is a big school, fat-headed judge problem. Go away and leave us alone. I’m serious.”

Herding Cats, 5 GREEN BAG 2D 239 (2002)
(quoting Christopher Avery et al.,
The Market for Federal Judicial Clerks,
68 U. CHI. L. REV. 793 (2001)
(quoting response in anonymous survey of federal judges)).

We do not even think of judicial opinions as integrated wholes. Opinions are more akin to giant Lego constructions

Bob Berring, *Unprecedented Precedent: Ruminations on the Meaning of It All*, 5 GREEN BAG 2D 245, 245 (2002).

“Citing a precedent is, of course, not the same as following it; ‘respectfully disagree’ within five words of ‘learned colleagues’ is almost a cliché.”

Bob Berring, *Unprecedented Precedent: Ruminations on the Meaning of It All*, 5 GREEN BAG 2D 245, 247 (2002)
(quoting *Hart v. Massanari*,
266 F.3d 1155 (9th Cir. 2001) (Kozinski, J.)).

[O]nly three federal appellate courts – the Third, Fifth, and Eleventh Circuits – have the courage of their convictions when it comes to unpublished opinions. ... Each of the other ten circuit courts of appeals has permitted its “unpublished opinions” to be reprinted in bound form and placed on library shelves around the country.

Brian P. Brooks, *Publishing Unpublished Opinions*, 5 GREEN BAG 2D 259, 260 (2002).

[O]ur commitment to convenience – we of cellular phones in movie theaters – may be as fervent as the Victorians’ commitment to dignity. . . . Prison is nothing if not inconvenient.

Marcus Cole, *A Modest Proposal for Bankruptcy Reform*,
5 GREEN BAG 2D 269, 275 (2002).

Although we can never know, perhaps Professor Llewellyn had the familiar experience of finally confronting a symposium deadline, and sent his research assistant to check out a “hunch” that Llewellyn had long held. Such experiences usually yield less success.

John F. Manning, *Legal Realism & the Canons’ Revival*,
5 GREEN BAG 2D 283, 283 n.3 (2002).

[I]t is better to be vaguely right than precisely wrong.

Christine Jolls, “*Social-Behavioral*” Economics,
5 GREEN BAG 2D 321, 323 (2002).

Why add more employees and their attendant benefit costs to one’s [media] payroll when eager and willing volunteers will do your company’s handiwork for free or for an exceedingly modest stipend of perhaps \$500 for three days’ work?

David J. Garrow, *A Tale of Two Posners*,
5 GREEN BAG 2D 341, 344 (2002).

“[I]f one law professor seems to be something of a ‘bozo,’ they will not only take him lightly but will take law professors in general more lightly. Maybe *many* of them are bozos.”

David J. Garrow, *A Tale of Two Posners*,
5 GREEN BAG 2D 341, 348 (2002)

(quoting Ward Farnsworth, *Talking Out of School*:

Notes on the Transmission of Intellectual Capital From the Legal Academy to Public Tribunals, 81 BOSTON U. L. REV. 13, 20 (2001)).

“Our ‘Green Bag’ is not intended as a *text-book* or a *legal reporter*; and the lawyer who turns to these pages for material which will aid him in the preparation of his case will seek in vain.”

Ross E. Davies, *The Most Important Article of All Time*,
5 GREEN BAG 2D 351, 352 (2002)
(quoting 1 GREEN BAG NO. 1, COVER & 37 (1889)).

“No man but a blockhead ever wrote, except for money.”

Frontispiece, 5 GREEN BAG 2D (Summer 2002)
(quoting *Nat’l Treasury Employees Union v. United States*,
990 F.2d 1271, 1280 (D.C. Cir. 1993) (Randolph, J., concurring)
(quoting 4 *Boswell’s Life of Johnson* 29 (A. Birrell ed. 1904))).

“The Ross approach ... has long since been directly repudiated by numerous cases. That approach is obviously erroneous ... rest[ing], at least in substantial part, on a fundamental misconception and ... should be left as a relic from a different era.”

Ho-Hum, 5 GREEN BAG 2D at ii (Summer 2002)
(quoting *Reid v. Covert*, 354 U.S. 1, 12 (1957) (plurality opinion)).

[T]he Supreme Court in deciding *Cottage Savings* was just a bystander. Yet even a bystander has a civic (if not a legal) duty to report illegal behavior when he or she observes it.

Stephen B. Cohen, *Even Before Enron*,
5 GREEN BAG 2D 387, 392 (2002).

I’m shocked, shocked to learn that philosophers analogize to fields they do not fully understand as readily as lawyers. (Anyone who cites this piece as an example gets a knuckle sandwich.)

John Hart Ely, *Ely’s Wager*,
5 GREEN BAG 2D 393, 394 n.8 (2002).

When I would protest that it seemed to me a central function of philosophers to point out that sometimes the way people described the world was, you should forgive the expression, wrong, I felt like a voice crying in the wilderness and got myself to law school as fast as my little legs would carry me.

John Hart Ely, *Ely's Wager*,
5 GREEN BAG 2D 393, 394 (2002).

And so I say to myself that words must be poor and treacherous means of putting out what goes on inside our heads.

Felix Frankfurter, *F.F.'s Soliloquy*,
5 GREEN BAG 2D 438, 439 (2002).

[U]ntil the fourth fold, the meat and dough just aren't kreplach.

Richard D. Friedman, ... *A Rendezvous with Kreplach*,
5 GREEN BAG 2D 453, 458 (2002).

“Destructive giant of a paper currency by government fiat’ (p. 11) is a strong expression, & might be thought to hint a rebuke to the final decision of the court on the subject – though, I am sure not so intended.”

Justice Joseph P. Bradley,
Note to Chief Justice Melville Fuller (Dec. 5, 1889)
(reprinted in *Fuller & Washington at Centuries' Ends* 66
(Green Bag Press 1999)).

I am the very model of a modern intellectual;
I know the ruddy answers though I'm rather ineffectual.
I'm more sophisticated, son, than people clad in denim are:
When I have nothing much to say, I say it in a seminar.
I have a little paper on some matters psychological;
The highest court knows less than I of subjects pedagogical;
I know which books are best to read,
 which symphonies are better. Ah!
I'm very well informed upon aesthetics and et cetera.

I know a thing or two about the science behavioral –
The which to foster, fellows stout,
 you sacrificed and gave your all.
I know about relations, both platonic and sexual –
In short, I am the model of a modern intellectual.

 Brainerd Currie, *The Behavioral Scientist* (excerpt), in
Quidsome Balm: The Collected Nonsense of Brainerd Currie 57
 (Green Bag Press 2000).

History is not always just in its discriminations, or correct in its estimate of individual character and of the true worth and merit of public services.

 George Van Santvoord, *Sketch of John Jay* 1
 (3d ed. Green Bag Press 2001) (1854).

The Continental Congress, it is well known, was a mere convention of delegates, a body, organized, it is true, but without specific objects, real authority, or definite powers.

 George Van Santvoord, *Sketch of John Jay* 14
 (3d ed. Green Bag Press 2001) (1854).

When [Judge David B. Sentelle] informed an old friend one day that he had spent the day at a “mass hippie gathering,” there was a long pause and the friend replied, “I know you want to seek favor with the liberals, Sentelle, but this is ridiculous.” Of course, David would have been confirmed anyway.

C. Boyden Gray, *Introduction*, in
David B. Sentelle, *Judge Dave and the Rainbow People* xxii
(Green Bag Press 2002).

“[T]hat which is not coffee ... cannot be sold as coffee.”

Green Bag Coffee Mug 2001
(quoting *United States v. Coca Cola Company of Atlanta*,
241 U.S. 265, 287 (1916)).

“Please ... do ... not ... spill ... coffee ... on the ... book[s].”

Green Bag Coffee Mug 2001
(quoting Norval Morris, *The Watching Brief*,
54 U. Chi. L. Rev. 1215, 1237, 1247, 1248, 1255, 1292 (1987)).

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