



Fund executive Douglas Den Uyl:

Believing that the modern world would be moved by imagination and sentiment, Shaftesbury's task was to fashion a way to lead the reader to intellectual introspection and reflection while engaging the imagination. The aesthetic dimension was, therefore, the link between intellect and imagination, sentiment and judgment. ... These images were carefully and meticulously designed by Shaftesbury himself to represent, in visual terms, some of the main themes of his writings. In the early editions containing these images, the page numbers of the corresponding passages are often included on the image itself.

Thus, for example, the top panel of the image reproduced here pertains at least in part to the following passage:

The greater Dread we have of *Anarchy*, the better *Country-men* we shall prove, and value

more the *Laws* and *Constitution* under which we live, and by which we are protected from the outrageous *Violences* of such an unnatural State [of nature]. ... And even *here* *HUMAN NATURE* shews it-self, such as it is; not perfect, or absolutely successful, tho rightly tending, and mov'd by proper and just Principles. 'Tis *here*, therefore, in *Philosophy*, as in the common *Conversations* of the World.

Anthony Ashley Cooper, *CHARACTERISTICS OF MEN, MANNERS, OPINIONS, TIMES* (1711, 1732; repr. Liberty Fund 2001).

TAXING CASES

NEIL RICHARDS waxed philosophical about boring cases and fitness for judicial office in our Summer 2001 issue. Now he returns to share a few morsels about judges and tax cases, including the classic

tale of what it takes to make Justice David Souter sing.

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."

In other news:

"This is a tax case. Deny." That was Brennan's normal reaction to a cert request in a tax case. Bob Woodward & Scott Armstrong, *THE BROTHERS* 362 (1979).

"If one's in the doghouse with the Chief, he gets the crud," Justice Harry A. Blackmun, whose relations with Chief Justice Burger were sometimes strained, said in a speech to a group of judges last summer. "He gets the tax cases, and some of the Indian cases, which I like but I've had a lot of them." Stuart Taylor, *Reading the Tea Leaves of a New Term*, N.Y. TIMES, Dec. 22, 1986, at B14.

"A dog is a case that you wish the Chief Justice had assigned to some other Justice." A deadly dull case, "a tax case, for example." Stuart Taylor, *Powell on His Approach*, N.Y. TIMES, July 12, 1987, at 1 (quoting a recently retired Justice Lewis Powell).

In one example of [Justice Thurgood] Marshall's humor, retired Supreme Court Justice Lewis F. Powell Jr. told the *Washington Post* several years ago of the time, in the middle of a lofty legal discussion about a boring tax case, Marshall leaned over to Powell and said, "You can have my vote on this for a future draft pick." Dick Lehr, *Former Justice Marshall dead at 84*, BOSTON GLOBE, Jan. 25, 1993, at 1, 6.

See Richard Carelli, *Justice Souter Sees Singing As Self-Defense*, AP, Jan. 7, 1992 (Carelli also reports that "[s]ome justices have told acquaintances they'd rather volunteer to wash windows than be assigned the opinion-writing chores in a tax case."); see also Paul L. Caron, *Tax Myopia, Or Mamas Don't Let Your Babies Grow Up To Be Tax Lawyers*, 13 VA. TAX REV.

517 (1994); Erik Jensen, *Of Crud & Dogs*, 58 TAX NOTES 1257 (1993).

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HOW MANY LAW PROFESSORS does it take to compile the judicial opinions in the flurry of election-related lawsuits that is coming to be known as "Bush v. Gore"? Three, although it is not clear why it took so many, unless it was to write the 11-page introduction to the compilation. Then again, by doing next to nothing, these scholars have produced one of the most useful, thoughtful and well-written books on the presidential election litigation.

Robert M. Jarvis, Phyllis Coleman & Johnny C. Burris, *BUSH V. GORE: THE FIGHT FOR FLORIDA'S VOTE* (Kluwer 2001).

ASIDE

ONCE EVERY FEW YEARS the editorial board of the *University of Pennsylvania Law Review* goes on a frolic and detour. The product of such an escapade is commonly labelled an "Aside," the most famous of which is *The Common Law Origins of the Infield Fly Rule*.

The board of Volume 149 (2000-2001) has delivered its contribution to this tradition in a short essay that "seeks to examine the potentially dangerous shift from paper to server" in the publication of legal scholarship. Like most law review articles, this one begins with the "roadmap" paragraph:

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 hyperprolixical verbosity and its footnote-heavy citation style; it has also been removed for lack of support. Part III argues for a vision