



1994

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### Recommended Citation

Robert E. Rains, *The Long and Short of a Small Case*, 19 *J. Legal Prof.* 117 (1994).

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# THE LONG AND SHORT OF A SMALL CASE

*Robert E. Rains\**

A small fry is not a potato,  
The big cheese not a dairy product,  
A long shot not an artillery shell,  
A short cut not a minor wound,  
A maximum not a humongous flower.<sup>1</sup>

What then, asks the law, is miniature golf?

It's not enough to mirror Justice Stewart  
and know it when we see it.<sup>2</sup>  
Because, says the law, we must classify.

Is it golf? Just smaller,  
no drives, only putting,  
a game of skill, with some luck,  
a junior version of its namesake?

Or is it amusement? Just for laughs,  
not a sport,  
a kids' game grown-ups play?

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1. For more in this vein, see RICHARD LEDERER, *CRAZY ENGLISH* (1990).  
2. *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring).

Who cares?

The Tax Man, that's certain.

The spiritual descendant of the Customs Man  
who just had to know

whether tomatoes are fruits or vegetables.

(Fruits, say the botanists.

Vegetables, quoth the Supreme Court.<sup>3</sup>

Pay up, says the Customs Man.)

Is the Tax Man a lexicographer?

No.

It ain't the principle; it's the dough.

A legal aside—

Our law limits taxes on golf course admissions.

(Oh how could a thing like that  
get through the legislature?)

But the Tax Man cometh.

Says he,

I'll tax mini-golf to the max.

The Tax Man knows

where the pols and the lobbyists play.

Real men are drivers.

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3. Nix v. Hedden, 149 U.S. 304, 304 (1893).

The mini-golf man says  
No!  
Lawyer by his side,  
to court they go.  
Where all is decided,  
but little resolved.

What follows follows:  
complaint, answer,  
stipulations,  
briefs, arguments—  
the artifacts of the trade,  
valuable to those who buy and sell.

Not unlike kids:  
“Is.”  
“Is not.”  
“Is too.”  
“Neither.”

Trial judge,  
no snob he,  
opines size is not key,  
nor is the long name of the little game—  
Golf is golf is golf.

But the Tax Man is certain,  
and takes his appeal  
to those long ball hitters  
on the appellate bench,  
the ones who see far o'er the landscape of the law.

A maxim, say they,  
stops this taxpayer short.  
*De minimis non curat lex;*  
mini-golf is a trifle,  
not real golf, of course.<sup>4</sup>

As with all of life,  
we'll pay a lot for a small pleasure.

One minor criticism  
of the court's magnum opus:  
(Will the reader please excuse a little carping  
from a small fish?)  
If the major premise is wise,  
what then, I wonder,  
is a little learning?

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4. *San Van v. School Dist. of Derry Township*, 635 A.2d 254 (Pa. Commw. Ct. 1993).