Epiphanies: When "God" "Speaks" to Us

What We Skeptics Can Learn from Christianity

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Part I

How We Skeptics Can Learn from Christianity

Chapter One

Why I Wrote This Essay

Okay, let's start with the basics: I don't claim any special wisdom or expertise about the topics covered in this essay. I have focused most of my attention on U.S. environmental law, which I have studied and tried to improve throughout my career.[1] At the same time, I struggled with personal relationships but ended up happy and blessed. See Chapter Six on How I Learned that Prayers Are Answered, perhaps the most important chapter.

Expertise in one area comes at the price of not seeing other things because, as humans, our time and cognitive capacity are limited. One of my mentors, Herbert Simon, taught me that lesson through his writings,[2] although we never met. What has made me who I have been to date is that I chose to try to understand some things at the price of not understanding other things. We all do that, consciously or not.

However, as luck (or Providence, or Fate, or "God" or whatever else you want to call it) would have it, I have had some experience in interpreting texts of various kinds. That skill comes from many years of studying law and judicial opinions but also from studying and teaching literature with a little moral philosophy thrown in as a Carnegie Teaching Fellow at Yale before I went to law school. My study of ancient literature at the Yale Graduate School between college and law school is particularly germane: I learned to unpack metaphors and grasp their symbolic meaning and I also learned that language changes dramatically over time. Throughout this work I apply those lessons to

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[1] *See, e.g.,* E. Donald Elliott, Daniel C. Esty & Adam Babich, *Advanced Introduction to U.S. Environmental Law* (Edward Elgar Pub., 2d ed. 2026), https://www.e-elgar.com/shop/usd/advanced-introduction-to-u-s-environmental-law-9781035331741.html.

[2] *See, e.g.,* Herbert A. Simon, *Designing Organizations for an Information-Rich World,* in *Computers, Communications, and the Public Interest* 37, at pp. 40–41 (Martin Greenberger ed., Johns Hopkins Press 1971), https://atelierdesfuturs.org/wp-content/uploads/2025/07/1971-simon.pdf. His most famous book is *Sciences of the Artificial* (MIT Press 1971), https://www.amazon.com/dp/0262691914. However, his book on regulation and administrative law speaks more to me. Herbert A. Simon, *Administrative Behavior: A Study of Decision-Making Processes* in *Administrative Organizations* (Free Press, 4th ed. 1997), https://www.amazon.com/dp/0684835827. In it, he contends that many human inventions including bureaucracies and other organizations as well as specialized expertise are devices to overcome the limitations of human cognitive capacity. See also Herbert A. Simon, *Reason in Human Affairs* (Stanford Univ. Press 1983), https://www.amazon.com/dp/0804718482, which I found disappointing. Simon shared the Nobel Prize for economics in 1978, but he was a true polymath whose work influenced cybernetics, information theory and psychology as well as economics.

argue that some biblical phrases should not be taken literally but are either idioms or physical metaphors to try to manifest a spiritual truth. I try to bring all the skills that my background has given me to bear to explain what some of the epiphanies in my life have enabled me to see -- or at least *think* that I see. See Chapter Four, Everybody's Got to Be from Somewhere.

The older I get, the more I think I gradually see how some things work outside my chosen field of professional study. Only some things, of course, but things both big and small. Those sudden flashes of what feels like insight are sometimes called "epiphanies," eureka moments, when suddenly one thinks one understands something deeper about how life works. The Germans call such sudden moments of insight *aha-erlebnisen*, which translates literally as "aha experiences," because they cause one to gasp, "Aha, *now* I see how that works!" An epiphany that occurred to someone else and is written down and shared with others, or simply made up to illustrate a point, is sometimes called a "parable" or the "moral of the story." I think that the Bible sometimes calls these epiphany moments when we glimpse a deeper meaning of something the appearance of an "angel."

To those readers who are turned off by my frequent references to the Christian bible, I apologize. I did not intend this to be a book about the Bible; that just happened as I reflected on the epiphanies in my own life and a verse or two from the Bible would just somehow pop into my head, almost like "magic." And maybe, just maybe, that's an epiphany too because I have discovered there is a lot of wisdom stored up in the Christian tradition that we skeptics miss for reasons that I will try to explain in this little essay.

I say repeatedly in what follows, I "think" this or that. The tentativeness is intentional, because I have learned from my life experience that my conclusions are preliminary and subject to revision as I learn more, so please take everything I say as a merely a suggestion for your consideration. I write this to share what I think some of my epiphanies have taught me to date. I originally started to write it for my children and grandchildren, but as I thought more about it, I came to feel that perhaps reporting what I think that I now apprehend may help others to decipher parts of the reality that we share that it took me a long time, and some travail, to fathom. If you already knew something, or consider it painfully obvious, please forgive me, but the point is still valid.

This is not an autobiography, nor is it a memoir. No, to be honest, I think I may have unintentionally backed into inventing a new literary form that focuses only on the epiphanies in a life. Most of what has happened in my life, and during my fifty-year career in teaching, writing about and practicing environmental law, would not be of interest to most people. Nor do most of the seemingly random events that have occurred in my life mean much to me, and I write at least as much to make sense of things for myself as for others.

No, this is a collection of some, but only some, of the *epiphanies* from my life, events that in retrospect reveal a hidden lesson about how some aspect of life works, plus enough context about the events to help the reader understand the life lesson. Kinda like what happens in Aesop's Fables. We all know that Aesop's famous fable isn't just about a tortoise and a hare, right? The same kind of sudden recognition of a deeper meaning or underlying principle hidden in an event or story can happen when we reflect on our personal epiphanies but also when we read parables in the Bible, or good literature, or even hear a song or hymn on the radio – WHAMO: we suddenly see a deeper truth that resonates beyond the particulars to manifest a larger life lesson.

When we discover a life lesson for ourselves through an epiphany, a parable, or even a work of fiction like a novel, a movie or a poem, we understand that lesson better than when someone lectures us about the point of the story.[3] Great teachers going back to Socrates have known that setting the stage with an example so that the listener can discover the point for themselves is a more effective way to teach. I teach that way, but more importantly, so too did Jesus and his apostles by telling parables; they are an invitation to the listener or reader to get the moral of the story for themselves – to experience an epiphany if you will.

Some religious folk call these sudden moments of insight when we grasp a deeper truth "God speaking to us." I prefer "epiphanies," because "God" is a freighted term for most people. That word like many others in the Bible carries a lot of baggage from our childhoods and/or religious tradition for most of us. The implicit theological baggage that we inherit from our childhood often gets in the way of our ability to see the deeper point, the moral of the story, if you will, because we just can't get past our disbelief in

[3] Caren M. Walker & Tania Lombrozo, *Explaining the Moral of the Story*, 167 Cognition 266, at pp. 266–81 (2017), https://pubmed.ncbi.nlm.nih.gov/28010879/.

some of the peripheral details. You'll find lots of examples in these pages. I call the people who suffer from this problem "skeptics," and I am one of them. It is for my fellow skeptics, as well as my children and grandchildren, that I write.

Why I Put Words in Quotation Marks

Throughout this essay I sometimes put words like "*God"* in quotation marks, as I just did in the paragraph above. That practice is not intended to be disrespectful; just the opposite: I do not believe that I – or anyone else for that matter – is able to comprehend God's true nature. That idea is frequently mentioned in both the Old and New Testaments and also in Islam. It is sometimes called *Apophaticism* in philosophy. See for example Exodus 33:20, where "God" reportedly says to Moses "You cannot see My face, for no human can see Me and live."[4]

Here's how Google AI explains the point:

- **Incorporeality of God:** Medieval philosophers like Maimonides insisted that all biblical references to God's body parts—including a face—must be understood as metaphors, as God is a non-physical, incorporeal being.

- **Beyond human comprehension:** The face represents God's true, infinite essence. A finite human being cannot grasp this totality and survive the experience. We can perceive God's actions in the world, but not God's true, unadulterated nature.

But as noted above, I also put words such as "*God*" in quotation marks because they are freighted terms. Most of us formed our conception of God when we were children based on analogies to our everyday experience, so it is heavy on analogies to kings and parents. I wish to try to avoid peripheral theological debates about God's nature. I am not qualified to opine about such matters, nor am I particularly interested in trying to unravel metaphysical puzzles. Theological disputes seem to me to be side issues that get in the way and distract many of us skeptics from absorbing the great wisdom embodied in the Christian tradition. That's deeply ironic because it is almost a standing joke throughout the New Testament that when Jesus tries to share his wisdom

[4] Exodus 33:20 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Exodus%2033%3A20&version=RSV.

with others, they miss the point because they get distracted by side issues or interpret his words literally. For a good example, see my discussion of John 3:1–8,[5] which is in a footnote near the end of in the penultimate chapter about sin. In that passage, Jesus patiently explains to the head Pharisee Nicodemus that being "re-born" is a physical metaphor to express a spiritual truth about turning over a new leaf and does not actually involve going back into your mother's womb.

Note that the phrase I just used to try to explain Jesus's metaphor, "turning over a new leaf," is itself an idiomatic metaphor for changing how one lives, but that idiom is still in use in modern American English, so very few native speakers would misunderstand that phrase as being about botany rather than how one chooses to behave. One of the hardest parts of learning any foreign language is learning to decipher the idioms. They are often metaphors or analogies to the physical world that have gradually reified into familiar expressions. Reading parables from the Bible is doubly difficult because it involves trying to decode idioms and metaphor translated from ancient languages.

Instead of falling into that trap of taking the words too literally, I try to interpret the epiphanies that "God" has sent my way as I would a poem, so that even a skeptical lawyer like me can tap into the wisdom embodied in the Christian tradition. And yes, I am aware of the "Bible as literature" movement[6] and am not claiming to have invented it.

The breakthrough for me came when the wonderful ministers at the First United Church of Christ in Milford, Connecticut[7] that I recently joined taught me that "God still speaks to us today." That idea had never occurred to me despite many years in the Presbyterian church. I thought God only spoke to us, if at all, through a bunch of old stories in the Bible. Silly me. There is even a 24-hour a day radio station in Amityville, Long Island devoted to spreading the word that "God still speaks," WGSS.[8]

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[5] John 3:1–8 (Revised Standard Version), https://www.biblegateway.com/passage/?search=John%203%3A1-8&version=RSV.

[6] *See generally* John B. Gabel et al., *The Bible as Literature: An Introduction* (Oxford University Press, 5th ed. 2005), https://www.amazon.com/BIBLE-AS-LITERATURE-5TH/dp/0195179072.

[7] First United Church of Christ in Milford, *Homepage*, https://firstchurchofmilford.org/.

[8] God Still Speaks Radio, *Listen Online*, https://www.godstillspeaks.com/listen-online/.

Like I said above: I am remarkably dense about a lot of things. We all are.

My Understanding of "Eternal Life"

My goal in writing this essay is to try to put down in a form that will outlast my mortal body some of what I think that I have learned in my 78 years of physical life. I do believe in "everlasting life," as the phrase goes in Christianity, but I do not believe in the resurrection of the physical body. No, as best I can understand so far, **our spirit lives on through our families, our disciples and the through tangible things like the art and books that we have imbued with our spirit,** a spirit that lives on and outlasts our physical bodies.

That is how I now understand one of the most important passages in the bible that Jesus "appeared" to his disciples on the third day after his crucifixion.[9] To me, that means that they remembered what he had taught them, reinvented themselves as his "apostles" and went on to spread his spirit throughout the world, thereby giving his spirit "everlasting life" for over two thousand years. It is hard to imagine Jesus's spirit still alive and changing lives throughout the world more than twenty centuries after his physical death if Peter and Paul and their successors had not shared his holy spirit with the world. See Chapter Three, Jesus's Greatest Miracle.

Jesus's everlasting life will continue for as long as his wisdom is preserved and preached throughout the world. That's what I understand by the oft repeated phrase, "the church is the body of Christ in the world." Whether Christ's physical body actually rose from the dead after his crucifixion seems to me to be a side issue that is less important than the lessons that he and his disciplines were trying to teach us about how to live our lives.

In this essay, I try my best to avoid theological debates that distract skeptics like me so that we can nonetheless tap into the wisdom that is stored in the Christian tradition. In other words, when deciding how to interpret a phrase from the Bible translated thousands of years after it was written, I ask

[9] Luke 24:36–49 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Luke%2024%3A36-49&version=RSV.

myself whether a physical or a symbolic interpretation is the gateway to a deeper truth, an epiphany in print if you will.

Now I finally understand why my wise and enlightened mother whose spirit lives on in these pages taught me early in life that Santa Claus was not a person, but a spirit. She did not want to lie to me, but more importantly, my first and best teacher wanted me to understand that spirits are for real. I am trying to pass the insight Mother taught me on to my daughter for the benefit of my grandson, Cole, who is now eight. I fear that he, like me and many others, may be bitterly disappointed when he discovers that some of the things that they are teaching him in Catholic school while true, are not *literally* true, but instead are ancient idioms and physical metaphors trying to express a spiritual truth by analogy to the physical world. As a result of misunderstanding the true meaning of these ancient phrases, one may lose touch with the many insights that Christianity can teach us about how to live a satisfying and productive life.

In my view, things like the virgin birth are either translation errors, metaphors or "noble fictions" invented by the Jesuits who thought that the common people in the Middle Ages could not handle the truth. For example, the word *virgin*, *parthenos* in Greek, means any young woman of childbearing age, a maiden, not only those who have never had sexual relations.[10] You probably already knew that; like I said, I'm slow about lots of things and am just learning that lots of stuff in the Bible has deeper meanings beyond the literal interpretations. For me, the spiritual truth is much more important than arguing about whether the literal meaning is true. For example, are dead bodies physically "raised from the dead," or instead does that really mean that someone's spirit lives on past their physical death by inspiring those who come after?

Many others got to that insight long before I did. Joseph Campbell explained it to me in a way that I could understand in a wonderful 1991 book *The Power of Myth*.[11] It was the first book that I gave to my beloved wife Gail because it had helped to open my eyes (spiritually, not literally). Campbell argues that many religions and myths are trying to convey similar spiritual

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[10] John Bechtle, *Parthenos: "The Virgin Mary Had a Baby Boy" Greek Word of the Week*, Ezra Project (Dec. 11, 2021), https://ezraproject.com/parthenos-the-virgin-mary-had-a-baby-boy/.

[11] *See* Joseph Campbell with Bill Moyers, *The Power of Myth* (Betty Sue Flowers ed., Vintage Books 1991), https://www.amazon.com/dp/0385418868.

truths but must do so in physical metaphors because that's the realm we live in and our physical experiences shape the way we think. That was not a new idea with Joseph Campbell, although he elaborated its implications more thoroughly than his predecessors. For example, the famous modern French philosopher Henri Bergson made similar points throughout his work. For example, in 1911 Bergson wrote, "Spirit borrows from matter the perceptions on which it feeds."[12] C.S. Lewis also noted in passing in his master work *Mere Christianity*, first published in 1952, that some aspects of Christianity are beyond our mortal ken and can only be pictured imperfectly through physical analogies.[13]

Accordingly, I try to interpret biblical passages, as well as the epiphanies in my own life when "God" "spoke" to me, *symbolically* in terms of the larger point they helped me to see. In my eyes (another physical metaphor that should not be taken literally), many biblical phrases are analogies that exemplify truths of a spiritual nature that we humans can grasp only imperfectly through physical metaphors. In short, I try to read epiphanies as I'd read a poem rather than a history book.

I do respect that many wise and learned people will disagree with how I try to read "God's word." For them, what I lay out in these pages may seem like Christianity-lite, if not outright blasphemy. But I am trying to interpret both scriptures and life events so that skeptics like me who do not believe in magic may tap into the wisdom embedded in stories in the Bible without taking what Kierkegaard famously called "the leap of faith"[14] to believe deeply implausible things that contradict our ordinary experience as a gateway to faith. In other words, I think that debates about literal interpretations of the epiphanies described in the Bible such as whether Jesus's physical body left the tomb after three days and walked around[15] are "throwing the baby out with the

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[12] Henri Bergson, *Summary and Conclusion*, in *Matter and Memory* 299, at p. 332 (Nancy Margaret Paul & W. Scott Palmer trans., George Allen & Unwin 1911), https://www.amazon.com/dp/1420937804.

[13] C.S. Lewis, *Mere Christianity* at p. 55 (HarperOne 2001).

[14] *See* Søren Kierkegaard, *Concluding Unscientific Postscript to the Philosophical Crumbs* at pp. 1–2 (Alastair Hannay ed. & trans., Cambridge Univ. Press 2009). For an accessible explanation, *Leap of faith,* Wikipedia (updated July 28, 2026), https://en.wikipedia.org/w/index.php?title=Leap_of_faith&oldid=1366522492.

[15] *See, e.g.,* 1 Corinthians 15:3–4 (New International Version) ("Christ died for our sins, was buried, and rose on the third day according to the scriptures"), https://www.biblegateway.com/passage/?search=1%20Corinthians%2015%3A3-8&version=NIV; Matthew 16:21 (Revised Standard Version) ("Jesus began to show his disciples that he must go to Jerusalem and suffer many things from the elders and chief priests and scribes, and be killed, and on the third day be raised"), https://www.biblegateway.com/passage/?search=Matthew%2016%3A20-22&version=RSV; Luke 9:22

bathwater." (Note again: another physical metaphor as an analogy to an ephemeral truth, but no one thinks it is about hurling an infant across the room after a bath because it is a modern idiom and we all know to take it metaphorically rather than literally.).

I do take my hat off to true believers, sometimes called "fundamentalists," who are able to take the leap of faith to believe what is for me unbelievable.[16] I think that they and I both draw many of the same lessons; they just understand the mechanisms behind these eternal truths differently than I do.

For example, I recently shared with my grown-up daughter Eve Chistina Savage Elliott Bousquet my understanding that the phrase "son of God" was an idiom meaning an inspired person, a prophet or an angel. Over two dozen persons in the Bible are identified as "sons of God," not just Jesus. Properly understood the phrase "son of God" is, to my mind at least, not an account of Jesus's biological origins, but an idiomatic metaphor that means a person who is particularly close to God in the way that a son is like his father. Many biblical scholars far more erudite than I make that point. For example, Doctor of Divinity E. W. Bullington writes in *Figures of Speech Used in the Bible Explained and Illustrated* that "the 'sons of God' in the New Testament refers to those who partake of the New, Divine or spiritual nature, whether angels or men, as opposed to beasts or other human beings."[17] My wise and inspired mother, an "angel" as I understand the term, tried to teach me that Jesus was not the only "son of God" by telling me that my deeply religious father, an elder in the Presbyterian Church, thought Gandhi was also a "son of God" like Jesus but I was too dense at the time to understand what she was driving at.

(Revised Standard Version) ("The Son of man must suffer many things, and be rejected by the elders and chief priests and scribes, and be killed, and on the third day be raised"), https://www.biblegateway.com/passage/?search=Luke%209%3A21-23&version=RSV; Luke 24:46–47 (Revised Standard Version) ("Thus it is written, that the Christ should suffer and on the third day rise from the dead"), https://www.biblegateway.com/passage/?search=Luke%2024%3A46-47&version=RSV.

[16] To be clear, I am not denying the *possibility* that a more literal interpretation may be true. A search for "evidence of life after death" will turn up over fifty books marshalling various types of evidence for a more literal interpretation of life after death. Search Results for "Life After Death: The Evidence," ThriftBooks, https://www.thriftbooks.com/browse/?b.search=life%20after%20death%3A%20the%20evidence#b.s=mostPopular-desc&b.p=1&b.pp=50&b.oos&b.tile. Rather, my main point is that this debate is for me a distraction, because even we sceptics who are agnostic about some of the miracles reported in the Bible can nonetheless learn from the Christian tradition how to live a happier, more meaningful and satisfying life.

[17] E. W. Bullinger, *Figures of Speech Used in the Bible Explained and Illustrated* at p. 503 (Baker Book House 1968), https://www.amazon.com/dp/0801005590.

But ask yourself: which interpretation opens up a deeper life lesson, an epiphany if you will: (1) that once over two thousand years ago a single human female gave birth without being inseminated by a human male but it never happened again, or (2) that Jesus was an amazingly wise and loving person imbued with "God's" spirit, a perfect man, from whose wisdom we should learn and whose example we should try to emulate? One might even think that's the key to a better understandng of the passage from John's gospel that is usually translated as something like this from the classic King James Version (1611) translation:

> Martha saith unto him, I know that [my dead brother] shall rise again in the resurrection at the last day. Jesus said unto her, I am the resurrection, and the life: he that believeth in me, though he were dead, yet shall he live: And whosoever liveth and believeth in me shall never die.[18]

Unfortunately, this classic translation, which many of us heard as children, is silent about what the key phrases "though he were dead, yet shall he live" if he "liveth and believeth in me" means. Believeth what? And how can someone "liveth in" another person? A more modern translation, the Amplified Bible (2015), explains the same passage this way: "Jesus said to her, 'I am the Resurrection and the Life. Whoever believes in (**adheres to, trusts in, relies on**) Me [as Savior] will live **even if he dies**.'"[19] One could even read that rendering as subtly contradicting Martha's understanding that her dead brother's physical body will be resurrected and saying instead that the road to "everlasting life" is to follow Jesus's teachings and example.

But regardless of the translation issues, ask yourself: which interpretation is more relevant to our lives? That somehow our dead bodies are magically going to emerge from our graves, or that the route to everlasting life is to follow Jesus's example and teachings?

A final reason why we skeptics often get disconnected from the wisdom embodied in the stories in the Bible is that modern science has imbued us with a different way of knowing that leads us to believe things if but only if we

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[18] John 11:24–26 (King James Version), https://www.biblegateway.com/passage/?search=John%2011%3A24-26&version=KJV.

[19] John 11:24–26 (Amplified Bible), https://www.biblegateway.com/passage/?search=John%2011%3A24-26&version=AMP.

can explain the underlying causal mechanisms. To qualify as "scientific proof," we not only have to understand how things work but the proposed mechanism has to jibe with other things that we think we already know, a principle called "biological plausibility" in epidemiology.[20] But by definition, many of the parables in the Bible are trying to teach us things where I at least cannot understand the mechanisms and which seemingly contradict my ordinary experience.

To those skeptics who are put off by my frequent references to biblical passages, I apologize. I did not start out to write a book about either the Bible or Christianity. That just happened as I pondered the epiphanies in my own life: they often resonated with episodes in the Bible that I remembered from my childhood. Perhaps that is itself an epiphany for why good parents often take their children to some kind of religious training: it gives them a kind of spiritual life preserver of sorts, that comes back to them later in life, particularly in times of trouble. See, for examples, Chapters Two and Six for how the religion that I learned as a child but did not really understand or accept came back to help me in times of crisis. Whether Christianity is unique in this way, or other religion and myths can also help us "see the light" in times of trouble is one of those theological disputes that I try to avoid as side issues that distract from what I consider the more important point.

Why Ponder Our Epiphanies

I see now that earlier in life I was too young, hot-headed and arrogant to understand many of the things that my wise and loving parents tried to teach me. Like Mary in the Bible,[21] I stored them up in my heart and pondered them until later in life when I had more experience and was better able to comprehend what my parents or other mentors were trying to teach me. Sometimes one senses that an event, or a phrase, has a deeper meaning, but the insight to interpret properly what an epiphany really means may not come until years later when one is wiser and has enough experience to see how things work in the longer run. See Chapter Nine about why one of my

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[20] Paul Whaley et al., *Biological Plausibility in Environmental Health Systematic Reviews: A GRADE Concept Paper*, 146 *J. Clinical Epidemiology* 32 (2022), https://assessments.epa.gov/risk/document/&deid%3D364639. For an accessible explanation, *Biological plausibility,* Wikipedia (updated Feb. 24, 2026), https://en.wikipedia.org/w/index.php?title=Biological_plausibility&oldid=1340227583.

[21] Luke 2:19 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Luke%202%3A19&version=RSV.

mentors, Judge Gerhard Gesell, turned down what seemed to me at the time to be a dream job, but I later understood exactly why he had done so. Fifty years later, the epiphany he had shared with me helped me decide to turn down a prestigious and lucrative offer from China, as I explain in the next chapter.

Thus, I write in part to figure things out for myself but also to pass on to my children and grandchildren, as well as any others who may be interested, a few of the epiphanies from my life as I now understand them. I do so in the hope that maybe future readers may be inspired to grasp the significance that goes deeper than the particulars of any given event in their own lives as well as in mine. On a website at https://epiphany.blog, I invite others to share epiphanies from their own lives and what they learned from them.

That's more than enough for one morning. "She who must be obeyed" (in the wonderful phrase borrowed from John Mortimer's *Rumpole of the Bailey*) is up and it is time to install a shower rod in the guest room in our new downsized house in Florida. The "she" in question is my muse and life partner Gail Charnley Elliott PhD, my best friend and my best editor; she is truly my missing other half as Plato put it in the *Symposium*.[22] See Chapter Six about the most important event in my life to date, how my wonderful wife came into my life in answer to my prayers and changed my life much for the better.

My daughter Eve says that my wife Gail "saved me." Yes indeedy, Gail was the "angel" who sparked my "rebirth" but "God" and the power of prayer is what saved me, as I will explain in Chapter Six.

[22] *See* Plato, *Symposium* at 189d–192e (Alexander Nehamas & Paul Woodruff trans., Hackett Publishing Co. 1989), https://www.amazon.com/dp/0872200760.

Chapter Two

A Blessing Hidden in a Challenge

Here is a recent example of an epiphany from my life. As I write, I am being politely but firmly told by my dean that the current semester is my last semester of teaching at Yale Law School after 45 years of teaching and learning at that unique place, which until now I chose to make the center of my life. Of course, that hurts. But I am now wise enough -- or inspired enough by a power greater than my own -- to understand that **inside every challenge, a blessing is hidden**.

Earlier in life I would have only felt the hurt and been angry at the loss, but now I see that this change in my life, while a painful transition, is also a "blessing" that "God" has sent my way. By a "blessing," I mean a gift that we do not earn or deserve but is bestowed on us by "God." Many non-believers attribute blessings to "good luck." But however you choose to think about it, a challenge like the one I now confront is an opportunity to make a course correction in how we choose to live our lives. I think of the line from Shakespeare's *As You Like It* that I was required to memorize in high school but did not really understand until now, "sweet are the uses of adversity."[23]

For example, as I will no longer "need" to be in the New Haven to teach law, Gail and I could move to New Orleans and help my son Ian and his wife Robyn take care of and educate their one-year-old daughter, Jordan Rose.

[23] William Shakespeare, *As You Like It* act 2, sc. 1, l. 12 (Barbara A. Mowat & Paul Werstine eds., Folger Shakespeare Library 2004), https://www.amazon.com/dp/B00IVWYJ24.

If we do, my wife Gail and I would not only experience more of the joy that comes from watching a young person grow into adulthood, but we would also be of more help to Ian and Robyn. At my advantaged age, I foresee the strain that Ian and Robyn, a doctor and a lawyer, face from trying to raise a young child while each having demanding jobs. Perhaps Gail and I could help Ian and his wife Robyn by sharing some of our last years with them and with Jordan. I know from experience that if we did, we'd "reap more than we sowed."

In short, **the blessing hidden in every challenge is the opportunity to re-consider our life choices and to make better ones going forward** – perhaps even to become "more like Jesus" in the words of that wise old hymn.[24] A challenge that unsettles one's routine assumptions about life is a good time to ask the question "What would Jesus do?"[25] My experience is that if you are sincere and ask for guidance in prayer, "God" will provide the answer. See Chapter Six on how I learned that prayers are answered.

I suppose that I should disclose for the skeptics in the crowd that the day after I wrote the passage above, I prayed and asked God what I should do next with my life – and like magic, the next day I got a million dollar offer out of the blue of an appointment as a Yangtze River Distinguished Professor at Guangzhou University Law School in China,[26] which is supposedly China's highest academic honor and has never before been bestowed on any American lawyer or law professor!

Is "God" "speaking" to me, or is Satan tempting me away from what I should do with the precious few remaining years of my physical life with the offer of a prestigious and lucrative position in China? Am I really being "called" instead to spend more time in New Orleans, or in our heaven on earth new home in Florida with Gail my love and write more books like this one, or to go to China and write about what our two legal cultures can learn from one another? I am trying to figure that out, but I can say for sure that who and what I am in my remaining years will be shaped by whatever I decide.

I start by asking myself "what would Jesus do?"[27] On the one hand, throughout his life Jesus seemed to focus on personal relationships rather than affairs of state, but on the other hand, as far as we know, he didn't get married and devote himself to educating only a few children and grandchildren. He spoke for all the world about enduring spiritual truths. But then again, I am not Jesus and I know it. The precise question is not exactly "what would or did Jesus do," but rather what each of us can learn from

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[24] Jairus Maxson Stillman, *More Like Jesus* (1878), https://hymnary.org/media/fetch/200143.
[25] *See generally* Sophia Bricker, *What Is the Origin of the Phrase 'What Would Jesus Do'?*, Christianity.com (Mar. 20, 2024), https://www.christianity.com/wiki/christian-terms/what-is-the-origin-of-the-phrase-what-would-jesus-do.html.
[26] *Professor E. Donald Elliott Named Changjiang Scholar*, Yale L. Sch. (Dec. 22, 2025), https://law.yale.edu/yls-today/news/professor-e-donald-elliott-named-changjiang-scholar.
[27] *See generally* Garrett W. Sheldon, Deborah Morris & Charles M. Sheldon, *What Would Jesus Do?: A Contemporary Retelling of Charles M. Sheldon's Classic, In His Steps* (Baptist Sunday School Board 1993), https://www.amazon.com/What-Would-Jesus-Contemporary-Retelling/dp/0805460675.

Jesus's example and those of other people whom we revere for our own lives. The two academic mentors whom I value the most, Guido Calabresi and Bruce Ackerman, both advised me to go to China without a moment's hesitation, whereas those who advise me not to go emphasize the personal costs, including the loss of credibility that might accompany being seen as a "Chinese sympathizer." I'd be willing to "carry that cross" if I thought that I could play a role in helping our two legal cultures better understand one another. My dear mother, an "angel" who often appears in these pages, often repeated the line "blessed are the peacemakers," usually when my sister and were fighting. Little did I know at the time that it came from Jesus's Sermon on the Mount, much less understand its larger implications.

As is characteristic for me, however, I am trying to figure out if there is some way to do "all of the above." Earlier in life, when I was confronted with the life choice of being either a law professor or a practicing environmental lawyer, I decided to do both. As a result of having two careers at once, I feel that sometimes I see things that others miss precisely because I see things from two different perspectives, a concept sometimes called "parallax."[28]

I was only able to do two full-time jobs at once with my wife Gail's amazing help and support; she sacrificed her career to support mine, as had my mother before her. My mother died before Gail and I got together, but I have no doubt they would have recognized one another as kindred spirits. Mother Mary Jane's spirit is alive and well within me every day of my life, and I try to pass on some of her spirit in these pages. That's a good example of what I think the words "everlasting life," a phrase that occurs at least 41 times in the New Testament,[29] really means. See Chapter One.

My doctor son Ian Donald Savage Elliott[30] is seriously considering putting his career on hold to spend more time with his newborn daughter and so his wife can concentrate on her legal career. That's what one does when you love somebody. I learned that lesson in words rather than deeds from another of my mentors, Richard A. Posner,[31] one of the inventors of the law and economics movement, who later became a judge on the prestigious U.S.

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[28] Tereza Pultarova & Jim Lucas, *What Is Parallax?*, Space.com (Jan. 11, 2022), https://www.space.com/30417-parallax.html.
[29] Matt Slick, *Word Study on Eternal Life*, CARM (Oct. 11, 2018), https://carm.org/word-study-on-eternal-life.
[30] *Ian D. Elliott, MD,* Ochsner Health, https://www.ochsner.org/doctors/ian-elliott/.
[31] *Richard A. Posner*, Univ. of Chi. L. Sch., https://www.law.uchicago.edu/faculty/posner-r.

Court of Appeals for the Seventh Circuit in Chicago. Early in my teaching career I was an untenured visiting associate professor at the University of Chicago where Posner also was teaching. One day as we were walking across the grassy Midway for lunch at the faculty club, Dick Posner turned to me and said, "Don, do you know the economist's definition of love?" "No, I don't believe that I do Dick," I replied. "Inter-dependent utility functions," he announced with a smile. For those not familiar with the economic lingo, that means that what you want is defined at least in part by what your partner wants and *vice versa*.

I hear a little voice inside my head right now telling me that I should disclose the rest of the story. At the time, I was an untenured associate professor at Yale but at the end of my semester visiting at the University of Chicago, the Dean of its law school, Gerhard Casper,[32] offered me a job there but *with tenure*! That would have been an amazing promotion for a young whippersnapper who had only been in law teaching for about three years and had only written a few articles. My Dad had gone to the U of C, and growing up I always dreamed of attending that great university. The many charms of the then-great city of Chicago – which at the time called itself "the city that works" – also were not lost on me. Plus at the time, the U of C faculty was amazing. I remember fondly having lunch with Nobel Prize winners such as economists Ronald Coase[33] and Gary Becker,[34] who had both written articles that were highly influential for me and many other lawyers. Chicago at the time also, had a terrific junior faculty, including Cass Sunstein, now a Harvard Law Professor[35] and the most cited legal scholar of our generation, and Frank Easterbrook, now a judge on the Seventh Circuit Court of Appeals[36] as well as an outstanding legal scholar and a leading exponent of textualist judicial philosophy.[37] Cass and Frank both became my good friends. I often wonder

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[32] *Gerhard Casper*, Off. of the Provost, Univ. of Chi., https://provost.uchicago.edu/directory/gerhard-casper.
[33] *Nobel Laureate Ronald Coase*, Univ. of Chi. Booth Sch. of Bus., https://www.chicagobooth.edu/faculty/nobel-laureates/ronald-coase.
[34] *Nobel Laureate Gary Becker*, Univ. of Chi. Booth Sch. of Bus., https://www.chicagobooth.edu/faculty/nobel-laureates/gary-becker.
[35] *Cass R. Sunstein*, Harv. L. Sch., https://hls.harvard.edu/faculty/cass-r-sunstein/.
[36] *Hon. Frank H. Easterbrook*, Fed. Soc'y, https://fedsoc.org/bio/frank-easterbrook.
[37] *See generally* Antonin Scalia, *A Matter of Interpretation: Federal Courts and the Law* (Amy Gutmann ed., Princeton Univ. Press 1997), https://www.amazon.com/dp/0691004005. For an accessible explanation, *Textualism,* Wikipedia (updated Jan. 12, 2026), https://en.wikipedia.org/w/index.php?title=Textualism&oldid=1332498966.

how my career would have been different if I had gone to Chicago, but that was not to be for reasons I'll explain, and which illustrate Posner's point.

I wanted to accept Casper's offer and move to Chicago. However, my then wife Mary Ellen said "no." Forcefully. In fact, she wouldn't even come to Chicago to take a serious look at the place. I now see that she was a small-town girl from Bangor, Maine and the idea of living in a big city like Chicago did not much appeal to her, and in fairness to her, we had one young child and another on the way. But the deeper point, the epiphany if you will, is that Mary Ellen and I were both stubborn and not very good at Posner's "interdependent utility functions." Maybe reality or "God" or whatever was trying to tell me something that I was too dumb to see.

In any event, I turned down Chicago's offer and went back to New Haven, but before I did, I did something uncharacteristically smart: I called up my Yale Dean, Harry Wellington and told him about my tenured offer from Chicago. He immediately matched it by offering me tenure back at Yale. That set a new record after one of the shortest probationary periods as an untenured faculty member in the history of the school. I'd like to take credit for being a great negotiator, but I had no clue that was going to happen. Perhaps I was guided by a higher power?

I see now something else I did not understand at the time: it would have been a great loss of face for Yale Law, which has been number one in the rankings for many years, if I had left to go to Chicago, which is usually ranked between third and fifth depending upon the year. (For those readers who like me are fascinated by patterns in how life works – *aka* epiphanies – this episode illustrates a principle discussed later in Chapter Ten - Seizing Victory from the Jaws of Defeat. A short summary is don't give up and accept defeat. I learned those life lessons in part watching my son Ian play rugby and have a distinguished career in medicine despite not doing as well as he had hoped on the MCAT, the entrance exam for medical school, but those are tales for another day.)

Gail on the other hand would have loved living in Chicago. Gail was raised in Bronxville, a suburb of New York City, and then attended both college at Wellesley and grad school at MIT in Boston, and then moved to Washington, DC where we met. She is a city girl who would have loved the opera, museums and fancy restaurants and sophisticated stores that Chicago had to offer and New Haven cannot match. For her, moving to New Haven to be with

me was a big sacrifice – and while I am foreshadowing other chapters, that's the point of Chapter Seven about how sacrifice communicates more credibly than words. I often say that Gail and I have a cross-cultural marriage – but then add, but all marriages are cross-cultural in one way or another.

But to be more precise – and this is important – we didn't actually move to New Haven full time but for twenty plus years we divided our time between Washington, DC and New Haven, Connecticut and I went back and forth once or twice a week on Amtrak. Gail and I are pretty good at compromises. Interdependent utility functions. See, there really is a pattern that underlies the seemingly unconnected events that I relate in this essay. That's what epiphanies often are – seeing patterns underlying seemingly unconnected life events,[38] so please bear with me through what may seem at first to be digressions.

I'll figure out my current dilemma about how to spend the rest of my life, with "God's" help, and of course with the wise counsel and advice of the many friends and colleagues whose recommendations I have sought, including most of all my precious wife Gail. I will try to do what E. Donald Elliott Jr. is called to do by his unique life's experiences and perspective. That's the important point: how we should make important life decisions about how we spend our limited time on this earth, and you've heard my two cent's worth in the previous paragraphs.

Today I think that I finally figured out that I was meant to keep writing books like this one about the things in life that really do matter. That came to me just this morning as I pondered the wisdom hidden in an epiphany that one of my mentors, the late federal trial court judge Gerhard A. Gesell, had taught me. As I mentioned above, and will also describe in more detail below, he shared with me why he had turned down an attractive position as General Counsel of DuPont because he would have had to "give up his independence" as he saw it. Same for me and China. They are offering me a prestigious position and a million dollars (literally) to come to China and focus my writing in the final years of my life on improving the mutual understanding of the legal systems of our two countries, but in exchange, I'd have to give up the luxury (maybe "the calling") to write essays like this one and devote my limited time

[38] For a stimulating argument that science is also about detecting the patterns underlying events, *see generally* Gregory N. Derry, *What Science Is and How It Works* (Princeton Univ. Press 1999), https://www.amazon.com/dp/0691058776.

left to writing instead about what our two legal cultures can learn from one another.[39]

Some of my readers just "appeared" to me in "my mind's eye" and objected, "but can't you do both?" To be sure, I can probably do some of both[40] but not by going to China full-time for the next three years. And yes, there is an epiphany *aka* life lesson hidden in that too: when confronted with a choice between two competing values, the optimal solution is often a compromise. When offered a choice between the cake and the ice cream, I often choose a little of both.

The most important life lesson in my current epiphany is not whether I do or do not accept the offer from China; it is that **inside every challenge a blessing is hidden**. That insight is not unique to Christianity. It is sometimes said that the Chinese ideogram for a "crisis" (危機) *wēi jī* is the combination of the two symbols for "opportunity" and "danger."[41] It is also said that the character 机 (jī) more accurately translates to "a crucial point" or "a point of change" rather than "crisis." Be that as it may, I see that "God," or Fate, or Karma, or the order of the universe, or "my higher power" (as they say in Alcoholics Anonymous) — whatever you want to call it — has given me a chance to move beyond teaching young people to be lawyers and do something with the remaining years of my life that *really* matters to me, and I hope may matter to others as well.

I liked Charles Krauthammer a lot, but I was disappointed when I read his book, *Things that Matter*,[42] because it was all about politics. Okay, I admit that politics matters some, as it deals with issues like war and peace and the economy that deeply affect the lives of many people. I write a fair amount

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[39] *See, e.g.*, E. Donald Elliott*, U.S. Environmental Law in Global Perspective: Five Do's and Five Don'ts from Our Experience,* 5 *Nat'l Taiwan U. L. Rev.* 143 (2010), http://hdl.handle.net/20.500.13051/2058.

[40] See, for example, E. Donald Elliott*, U.S. Environmental Law in Global Perspective: Five Do's and Five Don'ts from Our Experience*, 2010 National Taiwan University Law Review 144 https://openyls.law.yale.edu/handle/20.500.13051/2058

[41] *Chinese word for crisis,* Wikipedia (updated July 20, 2026), https://en.wikipedia.org/w/index.php?title=Chinese_word_for_crisis&oldid=1365198165.

[42] *See* Charles Krauthammer, *Things That Matter: Three Decades of Passions, Pastimes and Politics* (Crown Forum 2013), https://www.amazon.com/dp/0385349173.

about politics, law and current events at *The American Spectator*[43] as well as in articles in law reviews and other professional publications.[44]

Similarly, teaching lawyers to be wise and ethical is not a total waste of the limited time we are given on this earth. One of the best speeches I have given so far was at the University of Houston law school twenty years ago. My hosts had asked me to address the question "Is Law an Honorable Profession?" My answer was "no, it is not inherently an honorable profession, but it is possible to be an honorable person in the law." I went on to try to explain to law students how that works. The main ideas were never do anything you wouldn't be proud to tell your children that you had done, never make an argument for a client that you don't believe is at least potentially valid and listen to and treat with respect those on the other side of the table (funny isn't it how those lessons I drew from my professional experience echo things that the Bible tells us?). Perhaps the experience of giving that speech should have been an epiphany for me to re-focus my professional efforts, but I missed the point, although I did teach legal ethics in all my classes.

However, I recently attended my fiftieth-class reunion at the Yale Law School. We went around Room 127, the large lecture hall in the ornate Yale Law School surrounded by paintings of our forebearers in the legal profession, and everyone described his or her career. Most of my classmates had spent their professional lives on things that don't seem to me to matter all that much in the grand scheme of things. The most significant story was from Joan Wexler, the former dean of Brooklyn Law school, who described the construction of a new building during her tenure as dean. I listened and said to myself at the end, "Why in the world am I devoting my life to educating people to do such things with their lives?"

Granted, some of the people in my law school class have done things that matter some, at least as the world typically judges such things. I think particularly of our classmate Supreme Court Justice Clarence Thomas, a kind and loving man more sinned against than sinning, as I describe in the next section. Or David Roe, who wrote a path-breaking environmental law for California called Proposition 65. Or Art Spitzer who ran the ACLU office in DC

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[43] *E. Donald Elliott*, The American Spectator, https://spectator.org/author/edonaldelliott/.
[44] Search Results for "Elliott Donald," OpenYLS: Yale L. Sch. Open Scholarship Repository, https://openyls.law.yale.edu/search?query=elliott%20donald.

for many years. But they did not attend the law school reunion (maybe that says something too?).

Another classmate whose life and career I admire is my close friend, Marvin Williams, who sometimes calls the two of us "brothers by different mothers." He graduated from Yale Law School with me in 1974 but decided not to practice law and instead became the project manager for the construction of the Los Angeles subway system and went on have a distinguished career building infrastructure projects throughout the world, focusing today on Africa. But even more importantly, Marvin has recruited numerous promising young people who might not otherwise have gotten an Ivy League education and mentored them.

The Justice Clarence Thomas I Know

Here is a little epiphany about the Clarence Thomas who was also one of our classmates. Clarence was angry at the Yale Law School – and at me in particular as his classmate – for not coming forward to defend him in his contentious confirmation hearing in the Senate. I did not do so because I thought my testimony would sink his nomination because I would have seemed to confirm some of the charges against him. I had indeed mentioned *Roe v. Wade*, the Supreme Court's controversial and now overruled abortion decision, one time briefly and in passing at a private lunch with Clarence in Washington. What he had said about that controversial decision and to whom had become an issue in his confirmation hearing. As a member of the Supreme Court bar, I thought I might have an ethical obligation to come forward to contradict his testimony, so I got a copy of the transcript of exactly what he had said to the Senate Committee. I read it very carefully and decided that what Clarence had said was not inconsistent with my passing mention of *Roe* during a lunch conversation. I brought up the case, but he did not take the bait and instead quickly redirected the conversation to other topics without a clue as to how he would rule on the matter. But by that time, I had had multiple experiences testifying before Congress myself and I judged that the distinction I was making would get lost in the political spectacle of a classmate appearing to contradict the nominee, so I decided to remain silent. As I describe elsewhere in this essay, I had learned from my father's example that **sometimes the most important thing to say is nothing at all**, see Chapter Three.

A few years passed with no contact between us and finally I called up Justice Thomas's chambers at the Supreme Court and scheduled a private lunch with him at his favorite restaurant on Pennsylvania Ave. near the Court. I explained to him why I had not come forward, and he seemed to forgive me, but not the law school. For many years thereafter, Clarence would have nothing to do with the Yale Law School. Finally, one of his law clerks, a good Christian, persuaded the Justice that he should forgive and reconcile with the law school. See the line from the Lord's Prayer, "forgive us our trespasses as we forgive those who trespass against us."[45]

Clarence visited New Haven in 2012 and I was privileged to be invited to join a private meeting with Justice Thomas and a few students and faculty in the office of the then law school dean, Robert Post, at which Justice Thomas apologized and announced his intention to reconcile with his *alma mater*.[46] However, later in his visit, he stated publicly in a speech that he felt that the Yale Law School had "failed him."

As luck would have it – or maybe it was "God's will"; who knows? – during that visit Justice Thomas also attended our class reunion. My wife Gail and I hosted my classmates including Clarence for Sunday brunch at our home, a former fishing cottage, overlooking the Long Island Sound in Milford, Connecticut about ten miles from Yale. Clarence and his wife Ginni arrived in a big black limousine driven by one of the Supreme Court marshals. As is his practice,[47] Clarence went around and greeted everyone personally, including the catering staff who were working in the kitchen of our little beach cottage.

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[45] Matthew 6:12 (New Matthew Bible), https://www.biblegateway.com/passage/?search=Matthew%206%3A11-13&version=NMB.

[46] *See* Debra Cassens Weiss, *Justice Thomas Is Apparently Reconciling with Yale Law School*, A.B.A. J. (June 1, 2012), https://www.abajournal.com/news/article/justice_thomas_is_apparently_reconciling_with_yale_law_school.

[47] *See* Jenna Sundel, *Justice Sonia Sotomayor Reveals Unexpected Details About Clarence Thomas*, Newsweek (Sep. 11, 2025), https://www.newsweek.com/justice-sonia-sotomayor-reveals-unexpected-details-about-clarence-thomas-2128421.

At some point, I drew Clarence aside and we walked to the corner of the front lawn where no one could hear us. I said to Clarence words to the effect of "You said the other day that the Yale Law School had failed you. Now when you graduated, no one would hire you for a suitable position. Guido Calabresi (then a professor and later dean) called up his former roommate and close friend John Danforth, who was then Attorney General of Missouri, and persuaded him to hire you as his special assistant. When Danforth became a Senator, he brought you to Washington with him and later persuaded the President to nominate you first to the EEOC, then to the D.C. Circuit and then to the Supreme Court. Now tell me again how you think the law school 'failed you.'"

Clarence looked me in the eye as if he had been struck by a bolt of lightning (maybe it was an epiphany?). He looked down and said slowly in his deep bass voice, "I guess you are right, Don." To the best of my knowledge, Justice Thomas never again claimed that the Yale Law School had "failed him." I don't correct Supreme Court justices very often and I don't believe that

I have ever heard another justice admit that he or she was wrong quite so clearly. Clarence and I disagree on many legal issues, but I recognize him as a true "son of God" who tries to follow Jesus's example of humility and loving your neighbor as yourself. Perhaps that is why I felt comfortable speaking frankly to him (epiphany alert!).

I do acknowledge that my frank conversation with Justice Thomas is also an example of the unique opportunities I have had through my Yale Law School affiliation. Another was moderating a private meeting between our Supreme Court justices and the judges of the European Court of Justice to discuss statutory interpretation, one of my specialties. We had a nice lunch at the Court's private dining room afterwards. I sat between Justice Thomas on one side and Justice Stephen Breyer on the other, both of whom I had known for many years. The conversation was "off the record" so I cannot disclose exactly who said what, but it was indeed illuminating regarding their different approaches to judging. Most of the judges from Europe said they tried to figure out what the purpose was underlying a statute and to interpret it to fulfill that goal;[48] some of the more conservative U.S. justices objected, however, saying "who am I to say what the legislature intended?" Not an opportunity that everyone gets to be a fly on the wall for that conversation, I do realize.

Be that as it may, now rather late in life (78 years and counting), I think that I see that teaching at Yale Law School and practicing environmental law as General Counsel of the EPA, and thereafter with four big law firms, was both an amazing opportunity and a snare and delusion. I don't want to minimize its importance. I got the chance to teach and thereby influence the lives of many remarkable people such as J.D. Vance, our current vice president, and Ricky Revesz, who served as dean of New York University law school, and more recently the "regulatory czar" who reviewed and signed off on major regulations proposed by administrative agencies under President Biden. I also had the opportunity to teach many important judges including Judge Randy Moss[49] of the federal district court in DC and Stephanos Bibas[50] on the federal Third Circuit Court of Appeals. Judge Bibas was the first Trump-

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[48] *See generally* Aharon Barak, *Purposive Interpretation in Law* (Sari Bashi trans., Princeton Univ. Press 2005), https://www.amazon.com/Purposive-Interpretation-Law-Aharon-Barak/dp/0691120072.

[49] *District Judge Randolph D. Moss*, U.S. District Court for the District of Columbia, https://www.dcd.uscourts.gov/content/district-judge-randolph-d-moss.

[50] *Stephanos Bibas*, Penn Carey Law School, https://www.law.upenn.edu/faculty/sbibas/.

appointed judge to rule that Rudy Guiliani had not made the case for significant fraud affecting the result in the 2020 elections.[51]

Another fine judge whom I have been privileged to know is my close friend and former law partner, Charles Lee, who is a Connecticut State court trial judge.[52] I had written a letter of recommendation for Charlie when he was nominated and after he had been on the bench for a little while, I thought I should go see how he was doing. I was deeply impressed. When he ruled against someone, he looked them in the eye respectfully and explained clearly and personally to each of them in language that they could understand why he was ruling the way he was. In other words, he treated everyone in his courtroom with dignity and respect. The only other judge whom I have known who treated individual litigants as well as Charlie Lee was Gerhard Gesell, for whom I was a law clerk. See Chapter Nine.

There is a little more to the story, and perhaps it is an epiphany too. Years later Charlie and his amazing wife Leslie Lee, a leader for environmental improvement in Connecticut,[53] invited Gail and me to come to a dinner of close family and friends in celebration of Charlie's seventieth birthday. It was held at the Harvard Club in New York City, so of course I wore my Yale tie, but I digress. Anyway, the toastmaster went around the room and asked each of us to recount one recollection of the Charles Lee we knew. I told the story about witnessing how Judge Lee treated losing parties in his courtroom. As I noted above, he looked them in the eye and explained to them in plain words without legal jargon why he was ruling the way he had decided to rule. Charles later told me that mine was the toast that moved him the most. I don't know for sure why my comments moved him, but I surmise he was thinking "somebody noticed." Like Frank Dineen, whose story I recount elsewhere in these pages in Chapter Eight, Judge Charles Lee is a "son of God" who is not famous but does good works day in and day out in relative obscurity, a lot like Jesus's example in my opinion.

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[51] *See* Matthew Mosk, *Federal Appeals Court Issues Stinging Rejection of Trump Campaign Election Fraud Lawsuit*, ABC News (Nov. 27, 2020), https://abcnews.com/Politics/federal-appeals-court-issues-stinging-rejection-trump-campaign/story?id=74431333.

[52] *Charles Lee (Connecticut)*, Ballotpedia, https://ballotpedia.org/Charles_Lee_(Connecticut).

[53] *Board of Directors*, Save the Sound at p. 5 (Mar. 19, 2021), https://www.savethesound.org/wp-content/uploads/2021/07/Board-of-Directors-Roster-2021-PUBLIC.pdf#:~:text=LESLIE%20LEE%2C%20Stamford%2C%20CT%20Leslie%20Lee%20is,Garden%20Club%20of%20America's%20national%20Conservation%20committee.

I also taught and hopefully had an influence on many fine law teachers including Dan Esty and Adam Babich who are the co-editors of the new second edition my most recent book summarizing U.S. environmental law for non-lawyers, and law students both here and abroad.[54] Another example is Nick Parillo,[55] who replaced me in teaching administrative law at Yale, and who recently reminded me that I had taught administrative law to him and mentioned some of my ideas that made an impression on him and he continues to teach to his students. See how this everlasting spirit thing works? They, and others whom I have taught, may in turn have knowingly or unknowingly passed on to their students something that I had taught them. But as the end of my life on earth approaches, it seems that none of that *really* matters all that much.

I see now that the path I chose -- spending most of my limited time on this earth teaching lawyers -- was both a blessing and a snare and a delusion. It gave me something comfortable and rewarding to do with my time, but it also gave me an easy out from trying to do more important things that *really matter* – like figuring out and sharing with others how things in life work.

[54] Elliott et al., *Advanced Introduction*, *supra* note 1.
[55] *Nicholas R. Parrillo*, Yale L. Sch., https://law.yale.edu/nicholas-r-parrillo.

Part II

Epiphanies Growing Up in Indiana

Chapter Three

Jesus's Greatest Miracle

"Jesus's great miracle," according to Bill Drebus, a high school friend who married my sister and still lives in our hometown in Indiana, "was that he had twelve friends when he was 33, and eleven of them were loyal to him."

That's not literally true; all of them denied him at one time or another, but Bill's larger point is a great one: friends and disciples are truly a "miracle"; they are a route to the "eternal life" that the New Testament promises at least forty-one times[56] to those who follow Jesus's example.

It is Easter Sunday 2025 as I write this passage, and I believe that Jesus's greatest miracle, his rising from the dead, is actually about how his disciples gave him eternal life. Imagine that Jesus had not had disciples; would we ever have heard of this Jewish carpenter from Nazareth who was executed and moaned on his cross, "my God, why hast thou forsaken me?"[57]

A glimpse into the alternative history of what things would have been like[58] had Jesus not had disciples is set out in a book named *Zealot: The Life and Times of Jesus of Nazareth*.[59] An atheist friend of mine gave me a copy, which I read. It details how Jesus was not unique – as the author sees it – but was one of many Jewish rebels against Roman rule at his time who was put to death. Had Jesus not had disciples to spread and elaborate his wisdom, he would have been as obscure as his long-forgotten rebellious contemporaries.

No, I think that the true meaning of Easter, and of Christ's rising from the dead, comes when he "appears" again to his disciples.[60] I understand this as their remembering his messages and committing their lives to spreading his

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[56] Slick, *supra* note 28.

[57] Matthew 27:46 (King James Version), https://www.biblegateway.com/passage/?search=Matthew%2027%3A46&version=KJV.

[58] *See generally What Ifs? of American History: Eminent Historians Imagine What Might Have Been* (Robert Cowley ed., G.P. Putnam's Sons 2003), https://www.amazon.com/What-Ifs-American-History-Historians/dp/0399150919.

[59] Reza Aslan, *Zealot: The Life and Times of Jesus of Nazareth* (Random House 2013), https://www.amazon.com/dp/140006922X.

[60] John 20:19 (New International Version), https://www.biblegateway.com/passage/?search=John%2020%3A19&version=NIV; Luke 24:36–49 (New International Version), https://www.biblegateway.com/passage/?search=Luke%2024%3A36–49&version=NIV.

wisdom throughout the world. I think that's what the oft-repeated phrase, "the church is the body of Christ in the world" really means,[61] at least to me: that Christ's spirit lives on through us as long as we remember the things he taught us; reflect his teachings and his example in how we live our lives; and share Jesus's message with others.

The Other Side of Discipleship

The other side of discipleship as I understand it is "mentoring," and both the mentor and the disciple both get back more than they put in, in my experience (that's true for writing too; I am learning at least as much as any of my readers will from writing this.)

I am 78 years old, and as I contemplate my approaching death, I take comfort in hoping that those whom I have mentored over the years will carry on my spirit after my heart stops beating. They are mostly in my family, as well as those that I have been privileged to teach over the years, mostly but not exclusively at the Yale Law School, but also as several other law schools where I have taught as a visitor and in law practice, and in my writings, including this one. It is through them that my spirit will live on past the death of my physical body. See the parallel to the Easter story? That's what I believe the Easter story of Christ rising from the dead is trying to teach us: our spirit lives on past our physical death through the influence that we have had on others.

I have had many remarkable mentors in my lifetime, and through me and the others that they have inspired, they live on first through their influence on me and then through those whose lives I have touched and to whom I have passed on their wisdom (see how this works? Clue: It isn't about physical "touching." That's another of those pesky physical metaphors that try to express a spiritual truth by analogy.)

My First Mentors

My first, and probably most influential, mentors were my parents Edwin Donald Elliott and Mary Jane Bope Elliott. I learned a great many of the most important things that I know about what truly matters in life from them, as I

[61] Pamela Palmer, *Why Do We Call the Church the "Body of Christ"?*, Bible Study Tools (Apr. 11, 2023), https://www.biblestudytools.com/bible-study/topical-studies/why-do-we-call-the-church-the-body-of-christ.html.

detail in several chapters of this little essay. They were not perfect, being human like the rest of us, but they both were wise and giving in different ways. Like Jesus, they too have "eternal life," albeit on a lesser scale, through the wisdom they passed on to me, and others whose lives they touched, and in turn through me to all who read this essay. For example, Dad and Mom endowed a scholarship at a local university[62] (which by the way, Dad had helped to found) and to this day, long after their deaths, their gift helps students who could otherwise not attend college. I hope that people reading these pages will feel that they have gotten to know the spirts, or eternal souls, of my remarkable Mother and Dad.

One of the most noteworthy things about my parents was how non-sexist Don and Mary Jane were. I grew up in the 1950's and 1960's, first in Chicago and later in Southern Indiana, where my dad moved for a good job opportunity in 1953. At that time and place most children were taught to obey strict gender-specific roles based on the sex to which they were assigned at birth. Boys got footballs or toy guns or tools for Christmas, and girls got babydolls and dollhouses or pots and pans to play with.

[62] *E. Donald and Mary Jane Elliott Scholarship*, Fastweb, https://www.fastweb.com/college-scholarships/scholarships/15000-e-donald-and-mary-jane-elliott-scholarship.

Not so my parents: my sister Jane had a small police car with pedals to ride just like I did.

And yes, I had a baby doll to feed and put to bed just like she did. My parents taught me that men should love and nurture children just like women do and that women were entitled to choose to pursue whatever careers they wanted just like men. My Dad washed the dinner dishes with one of the children pretty much every night, thereby sharing the housework with my mother and teaching his children by example. I continue the tradition he taught me, and thereby honor his spirit, by doing all our laundry and ironing as well as unloading the dishwasher together with Gail.

My maternal grandmother Mildred Miller Bope taught me to cook, including how to make her wonderful fruit pies with homemade crusts. My mother refused to learn such things from her mother because Mom was a career girl – a teacher of the deaf who turned down a tenure-track position at Gallaudet University in Washington to raise me and my sister instead. Anyway, Mother knew – or thought she knew -- that you bought Wonder Bread

at the grocery store rather than making bread from scratch at home like my grandmother did. No, she thought that making delicious homemade bread and pies was a badge of patriarchy, although she would not have described it exactly that way. Consequently, my grandmother shared her precious recipe for homemade pie crusts with me. I adapted it to the Cuisinart, and she lives on every time I taste or remember her amazing pie crust on her homemade rhubarb pies. I try to cook once a week.

More importantly, Grandmother Mildred told me that she wasn't afraid of dying shortly before her death. My Dad told me the same thing shortly before he died.

What Mom and Dad Taught Me

One of the most important things that Don and Mary Jane Elliott taught me, and that I have tried to pass on to the next generation, was to **empower children to speak their minds on issues of the day**. They accomplished that exercise in building the character of the next generation at the dinner table. We ate together as a family almost every night and Mom and Dad would go around the table and ask each child what they thought about some event that was taking place in the world. This practice communicated an unspoken but powerful message to the children that their opinions were valued and that they too should be thinking about important events happening in the world around them. That message is somewhat like what is conveyed implicitly when my ministers go around the congregation before every service making small talk to their parishioners. Who knows whether without this subtle encouragement from my first and best teachers, I would have ended up as a Yale Law School professor confident enough to speak an uncomfortable truth to a Supreme Court justice (see Chapter Two).

My sister Jane was also inspired by our parents but chose a different path for her life. She went home to Indiana after graduating from college with a major in religious studies, went to work for the local telephone company and married her high school sweetheart Bill Drebus. They had a very different life than I did; not better or worse, just different. For example, my children both reside hundreds of miles away from me for professional reasons, but two out of three of Bill and Jane's kids still live in Evansville and all three take care of Bill lovingly as he ages.

My sister Jane majored in religious studies in college as I mentioned above. She was deeply religious throughout her life and a beacon of faith to me during my darkest hours. Good thing too, because she needed all the strength she found in her faith. She was diagnosed in her twenties as having multiple sclerosis,[63] a debilitating nerve disease that gradually gets worse and for which there was no effective treatment at the time. Her doctors advised her she could never have children because the stress of pregnancy would kill her. She went ahead to have three and survive. That was my sister Janey at her best.

Jane's disease gradually worsened throughout her life and when she finally died at 72, her death was a welcome release from torture. She was bed-ridden and could not even turn over by herself to scratch her back, as she once confided in me. But none of this phased her. She told me when I visited her for the last time near the end of her life: **"God doesn't give us a challenge that we can't handle."** A real "son of God" by my lights and an example of the strength that faith can provide in difficult times. She was a beacon of love and hope not only to me but also to many others who knew and loved her, as several people whom she had inspired shared with me at her funeral. Good example of how our spirit lives on past the death of our physical bodies. The spirits of my sister Janey and my parent Don and Mary Jane are with me every day of my life, and I hope to pass some of them on to each of you through this essay.

The Many Special Gifts My Parents Gave Jane and Me

I don't want to mislead anyone into thinking that Jane and I had a typical childhood growing up in Indiana. My Dad moved us there to take a very good job as a Vice President of a pharmaceutical company, the Mead Johnson Company which was founded and headquartered in Evansville. Dad was deeply religious and before Mead Johnson, he had worked for a consulting firm that specialized in applying Christian principles in management and that's why the Mead of Mead Johnson had hired him.

The Mead Johnson Company became an even better opportunity when it marketed a product called Metrecal, a low-calorie drink that offered

[63] *See generally Multiple Sclerosis: Symptoms and Causes*, Mayo Clinic (Nov. 1, 2024), https://www.mayoclinic.org/diseases-conditions/multiple-sclerosis/symptoms-causes/syc-20350269.

complete nutrition and became the diet rage of the 1960's.[64] The company was acquired by an even larger pharmaceutical company Bristol Myers in 1967. Dad had stock options and did well economically, but we continued to live a relatively simple middle-class life. Dad intentionally bought a nice but modest three-bedroom brick house, but not in a fancy neighborhood, nor did I attend the ritzy private school in town, the Evansville Day School, although we could have afforded it. No, I went to a good public school, but not one in the richest suburb. Dad had served in the army in World War II and wanted me and Jane to grow up knowing people from a variety of socio-economic backgrounds, as he once explained to me.

Dad also taught me that **"money is the least important thing in the world – provided you have enough, and 'enough' is a function of how you choose to live your life as well as your income**." He also taught me that when you get a raise, save half of it and treat yourself to something special with the other half. Both lessons have served me and Gail well throughout our lives and today we have "enough" to live well but not ostentatiously, and yes, we do contribute to charities, including our church, as well as supporting a homeless man who lives on the streets of Washington, D.C. who used to wash our cars to earn money for food.

Dad continued to drive his black 1951 Ford to work well into the 1960's until the company finally complained that it was an embarrassment to them for him to park his old jalopy in the parking lot reserved for their top executives. Today I proudly drive a 2002 Prius, so in a sense, Dad's spirit lives on through what he taught me.

Dad often repeated the quote from Thornton Wilder that "Money is like manure; it's not worth a thing unless it's spread about encouraging young things to grow."[65] Mom and Dad put that epiphany in print into practice with Jane and me. Although we were not wealthy, Mom and Dad took Jane and me to New York repeatedly when Dad had to go there for business meetings. Mom

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[64] *See generally To Diet For*, CBS News (Nov. 21, 2010), https://www.cbsnews.com/news/to-diet-for/; Pam, *Mmmmmmm....Metrecal!*, Go Retro! (Aug. 29, 2013), https://www.goretro.com/2013/08/mmmmmmmmetrecal.html; *"You Might Disappear!": Metrecal and Diet Culture of the 1960s*, How to Succeed in Business Without Really Trying (Jan. 8, 2014), https://olneyhowtosucceed.wordpress.com/2014/01/08/you-might-disappear-metrecal-and-diet-culture-of-the-1960s/.

[65] Thornton Wilder, *The Matchmaker*, act 4, at p. 101 (Samuel French 1958), https://www.amazon.com/dp/0062693492.

would take us to museums and go to her favorite hat store and then we would fly home on the company plane, first an old propeller-driven DC-3 and later after Metrecal, a fancy new Lear jet.

Mom and Dad also took Jane and me to England, France and Germany while we were still teens. I remember seeing the lovely monastery at Mont-Saint-Michel[66] on the beach in Normandy where my Dad had come ashore on the third day after D-Day invasion only a few years earlier, never dreaming he'd be alive to see it again, this time accompanied by a loving wife and two children. We also visited the French family with whom my dad had lived while recovering from his wounds in fighting his way across France with Patton's army after the Normandy invasion. Their daughter Monique even came to the U.S. and lived with us in Indiana for a year. Between my junior and senior years in high school, I lived with a family in Germany and only spoke German through a program sponsored by Indiana University. I am still semi-fluent in German, but more importantly, I learned to see the world through the eyes of another culture, a skill that has served me well throughout my education and career as I will elaborate later in this essay.

I continued the family tradition of foreign travel by telling my two children that when they turned sixteen, I would take them any place in the world of their choice. They each spent several years learning about other countries to decide where they wanted to go. My daughter Eve picked London and Paris, and I made the reservations, but a few weeks before we were scheduled to depart, one of my most important legal clients, the Toyota Motor Corporation, invited me to visit their headquarters in Japan. This is a great honor and indicated they were considering me for a larger role but unfortunately, Toyota picked the very same week I was supposed to take my young daughter to Europe. I thought briefly about rescheduling our trip, but I thought that would signal to my daughter that I considered my job more important than our relationship. See Chapter Seven about how actions speaker louder than words. I politely declined Toyota's invitation and said I hoped they would invite me for different date. They never did, inviting another lawyer from our firm instead who took over the Toyota business. I never looked back or regretted my decision to put family above a big client. The time that Eve and I spent together in London and Paris was priceless.

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[66] *The Mont-Saint-Michel*, Normandy Tourism, https://en.normandie-tourisme.fr/unmissable-sites/the-mont-saint-michel/.

All of these experiences helped to form me into who I became, and in particular, they taught me valuable lessons about how to appreciate and navigate different cultures. See Chapter Four, Everybody Has Got to Be from Somewhere. I used to joke that in law practice I was a cultural anthropologist explaining to people in business how people in government looked at things, and *vice versa*.

The Time Dad Lied to Me

Dad only lied to me once, at least as far as I can discern. He told me that he had turned down a full football scholarship to Wabash College in Indiana, because his family insisted that he turn it down to go to the University of Chicago instead. I took me years to figure out that probably wasn't true. The circumstances are illuminating, maybe even an epiphany.

I always did well on standardized tests, in part because my Mom and Dad were true intellectuals. For example, Dad bought a complete set of the Great Books which he and mother read to one another and discussed at night after my sister and I had gone to bed and which I have now passed on to my son Ian. Dad also bought and placed strategically in my bedroom a complete set of the *World Book Encyclopedia* that I read voraciously at night when I was supposed to be sleeping. But we also played lots of games of strategy growing up and I had taken summer school courses in speed reading and vocabulary while in high school.

Anyway, I did very well on the National Merit Scholarship Test[67] and won a full college scholarship to the college of my choice – except that my Dad made too much money and so they would only pay the nominal sum of $1,000. Several other colleges including Wabash College, a fine small liberal arts college in Indiana, offered me full tuition scholarships regardless of my family's income. I was inclined to turn down Yale and go to Wabash instead to save my family the cost of my college education. Dad lied to me and told me the same thing had happened to him, but for a football rather than an academic scholarship, and his family had insisted that he go to the better school instead. He was that kind of guy, and it worked. It took me years to figure out that story probably wasn't literally true; he had told me a "little white lie" because he felt Yale would be better for me in the long run. See Chapter

[67] *70 Years of Recognizing Academic Excellence*, National Merit Scholarship Corporation, https://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=2176.

Ten, where I describe how I told a little white lie of my own to help Bill Barr get confirmed as Attorney General in the first Trump Administration.

My Proudest Moment

Mary Ellen, the birth mother to my children, and I carried on some of what my parents had taught me by having family dinners most nights with our children and asking them what they thought about events far and wide. This practice paid off as the following example illustrates. In the early 2000's, we had a big debate in the Presbyterian church about whether we would allow single sex couples to be married in the Presbyterian church.[68] That was the subject of a congregational meeting in our church. Children were not automatically excluded from such meetings, but that decision was left up to their parents. Ours attended for reasons like those relating to our practices at family dinners. At one point, our son Ian Donald who was only twelve or thirteen at the time stood up in front of the assembled multitude of around a hundred adults who were engaged in a fractious debate and announced to the assembled congregation: "Well, I say that we ought to let everybody love whoever they want" and sat down.

The next person to speak was Bill Smalley,[69] one of the wisest and most respected members of the congregation. Bill had been a famous missionary in Africa; his papers are preserved at the Smithsonian Institution, and he was on the faculty at the Yale Divinity School at the time. This eminent theologian said merely "out of the mouths of babes"[70] referring to my son's observations and sat down. The debate was over.

I was never prouder of Ian, and he has done many things that make me proud, including leaving a lucrative career on Wall Street to go back to school to get a medical degree so he could help people walk again as an orthopedic surgeon. Another was when Ian sidled up to the class outcast in his junior high class and said, "I'll be your friend." That's my boy!

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[68] Gustav Niebuhr, *Shift in Presbyterian Debate on Gay Unions*, N.Y. Times (July 2, 2000), https://www.nytimes.com/2000/07/02/us/shift-in-presbyterian-debate-on-gay-unions.html.
[69] *William A. Smalley,* Wikipedia (updated Mar. 14, 2026), https://en.wikipedia.org/w/index.php?title=William_A._Smalley&oldid=1343527229.
[70] Matthew 21:16 (King James Version), https://www.biblegateway.com/passage/?search=Matthew%2021%3A16&version=KJV.

My Second Proudest Moment

Our first-born child, our daughter Eve, has also given us many precious moments. The one that stands out starts with me standing in a swimming pool begging Eve, then a little girl of about eight, to dive into the water and swim across the pool. She was afraid and demurred repeatedly and I cajoled and reassured her that I'd be there to make sure nothing went wrong. Finally, I prevailed and Eve dove in and swam across the pool. As she climbed out, a middle-aged man approached the two of us and said "Would that little girl consider joining my swim team? She has the most perfect swimming stroke I have ever seen."

That's my Eve-let. She rarely appreciates just how good she really is at many things. As luck would have it – unless you think maybe there really is an underlying logic to all of this – her mother Mary Ellen was trained as a psychiatrist and taught me that Eve, like many people, especially young girls, suffers from a lack of self-confidence and needs reassurance, particularly from their fathers. I often remind Eve of our shared epiphany when she swam across that pool so beautifully even though she doubted she could. I hope that life lesson has helped her muster the courage to take on new challenges, like recently accepting the job as general counsel of a new Massachusetts state agency that advocates on behalf of veterans after six years as a legal aid attorney.[71]

How I Learned that What You Don't Say Often Matters Most

My sister Jane grew up to become a star athlete like Dad and my son Ian, who was a champion rugby player including playing for the U.S. national team.[72] Both were far better athletes than I. When we used to play pick-up basketball games in the backyard and needed an extra player, the guys would let my sis play too. I lived in fear that someday she'd get chosen before I did when the sides were picked beforehand but that never actually happened. Nonetheless, growing up playing and watching basketball in Indiana was an important formative experience for me, and I see now how basketball became a lens through which I saw the world. See Chapter Ten, about how Bill Barr tried to throw me off my game by trash talking before an important meeting at

[71] *Office of the Veteran Advocate (OVA)*, Mass.gov, https://www.mass.gov/orgs/office-of-the-veteran-advocate.
[72] *Ian D. Elliott, MD*, https://www.ochsner.org/doctors/ian-elliott/ .

the White House but I didn't fall for it because of my experience playing basketball in Indiana.

One time when Ian was a pre-teen and my dad was still physically alive, we were visiting my parents in Indiana and the three of us went across the street to the college campus across from the house I grew up in to kick a football. Dad had been an All-City football star in Chicago in high school, but he was now in his sixties. Nonetheless, he could still kick a football in a high arch over fifty yards in a perfect spiral; Ian's kick sailed over thirty yards, also in a perfect spiral. Mine hit the ground after about ten or twenty yards and bounced embarrassingly along a few feet above the ground. Dad didn't say a word but just smiled. I thought that I could sense what he must have been thinking: "Now I get it; the athletic ability gene skips a generation."

Think there is no epiphany there? Think again. If my father had voiced aloud what he must have been thinking – particularly in front of my young son – I would have been humiliated and probably never would have played sports again. Dad was a past master at human relations, far better than I. A lot we can learn from that "son of God," including that **sometimes what you do *not* say matters most**. See Chapter Two, where I describe how I applied that life lesson later in life to avoid torpedoing Clarence Thomas's nomination to the Supreme Court.

Avoiding Military School

As best as I can tell, I was what people at the time called a "sissy" probably because my mother had had even more influence on me than my dad, but who knows: maybe I was born with more estrogen and less testosterone than average. Anyway, one day when I was in my teens, a sophomore in high school as best as I can remember, Mom took me aside and warned me that my dad wanted to ship me off to military school (Culver Academy in Indiana, to be precise) in order to "toughen me up." The thought of getting kicked out of my happy home and losing my friends did not appeal to me, so I went out for high school football. I played offensive tackle and linebacker on defense, and I proved that I could bang my body into other people with the best of them, and so I managed to avoid military school. Again, no epiphany? What about the fact that both Mom and Dad saw that I had a female as well as a male side, and that Mom told me what was about to happen to me, and I avoided a calamity?

Growing Up in Southern Indiana in the 1950's and 1960's

The Southern Indiana that I grew up in had an ugly side too. Evansville is at the very southern tip of Indiana, just across the Ohio river from Kentucky, and south of Louisville, Kentucky. For a while when we lived there, it was home to the Grand Dragon of the Ku Klux Klan, I later learned. When we first got there in 1953 or 1954, they still had some "Whites Only" drinking fountains. My Mom and Dad were from the north, and Mom wouldn't let me see those White's Only fountains because she felt they were so evil.

Mom was like that, God love her; she also refused to stand in church when she didn't agree with doctrine in the hymn. In particular, she couldn't abide the Presbyterian doctrine that "babies are born in sin" and refused to stand when the ministers intoned that phrase during baptisms. Again, no epiphany? What about thinking for yourself and not taking dogma for granted? The protestant reformation was mostly about that.

What I Learned in High School

I had great mentors in high school as well as at home. The high school teacher who refined what Mom had already taught me about writing had her graduate degree in education from Yale and my math teacher had received an award, also from Yale, as one of the ten best high school teachers in the country. Both were unmarried women, and I later saw that as other more lucrative opportunities were not always open to them before the Civil Rights Act of 1964 made discrimination in employment based on gender a federal offense, many very intelligent unmarried women, including my mother before she met my dad, went into teaching.

Perhaps the greatest mentor to me in high school was C.Y. Allen, my debate coach,[73] who later went on to teach speech at the University of Wisconsin at Stevens. We would often get up at 4 or 5 in the morning and drive in C.Y.'s VW beetle for a couple of hours to a speech and debate tournament in Terre Haute or somewhere else in northern Indiana a couple hundred miles away. Like many law students that I have taught subsequently, I went into law in part because of high school debate. But it was the conversations that C.V. sparked with us in the car on the two or three-hour ride each way that taught me even more than the debate tournaments. Yep, for

[73] *C. Y. Allen*, LinkedIn, https://www.linkedin.com/in/c-y-allen-196a934/.

sure C.Y. was an "angel" as I use the term. That doesn't mean he was perfect in every way. I don't know anything about the rest of his life, but his example taught me a lot and perhaps I spent most of my life teaching because of people like him and my mother.

What Randy's Epiphany Taught Me

I am still close friends with a remarkable person I got to know through high school debate, Randall T. Shepard,[74] who was one year ahead of me in high school, and later, two years ahead of me at Yale Law School. Randy went back to Indiana and I went to Washington, D.C. after graduation, but we are still friends and chat from time to time by zoom.

One of the epiphanies in this chapter is about Randy, and I tell it with his permission. That is itself an important point: epiphanies do not have to happen to you; one can learn from the epiphanies in someone else's life if you pay attention. Anyway, Randy worked at a pretty good, but not first-rate, big Wall Street law firm after his second summer in law school, but that firm declined to make him an offer of permanent employment for unknown reasons. I commiserated with Randy at dinner the day he found out and he was nearly in tears and thought his career was ruined. But he picked himself up and went on to work after graduation at the Department of Transportation in Washington and then went back to Indiana and went into politics. First, he ran for Mayor of Evansville, but he was defeated – in part because I went out to Indiana to help him on election day and the local paper ran a picture of the two of us on the front page and described me as his "friend," implying that he was homosexual, which he wasn't as far as I know. That was Southern Indiana for you.

Again, Randy picked himself up and became a local trial judge and after a few years trying cases in the trenches he was selected as the Chief Justice of Indiana. At the time he was the youngest state chief justice in the country, and he went on to have a very distinguished and productive career. He is also happily married to a wonderful woman and together they produced a wonderful daughter.

[74] *Hon. Randall T. Shepard*, Indiana Judicial Branch, https://www.in.gov/courts/supreme/justices/randall-shepard.

So what's the lesson? **Be careful what you wish for; you might get it.**[75] If Randy had gotten that job with that big New York law firm and had taken it, he would have lived an entirely different life, not necessarily a bad one, but certainly a different one. "God moves in a mysterious way, His wonders to perform," goes the eighteenth-century hymn[76] written by English poet William Cowper. Cowper should know: the hymn grew out of his three failed suicide attempts.[77] None of us humans is smart enough to impose his or her will on the universe; the wise among us learn to listen to what "God" is telling us. Randy was a much better and influential chief justice than he would have been as mayor of Evansville, Indiana.

I am writing this on the day after the memorial service for Charlie Kirk, who was gunned down by an assassin's bullet.[78] Some, including his widow Erika Kirk, predict that Charlie's vision of peaceful dialogue with those with whose opinions we differ may have even greater influence after his death,[79] as occurred with Jesus's Holy Spirit. We shall see whether Charlie Kirk's influence on his disciples after death will be even greater than it was during his life, but "**God" does indeed work in mysterious ways that we cannot always understand or anticipate**.

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[75] Melody Kendall, *Be Careful What You Wish For*, Spill the Beans (Jan. 10, 2022), https://ucanr.edu/blog/spill-beans/article/be-careful-what-you-wish.

[76] William Cowper, *Light Shining out of Darkness*, in John Newton & William Cowper, *Olney Hymns* 255, 255 (5th ed. 1788), https://www.amazon.com/Olney-Hymns-J-Newton-Cowper/dp/1019369957.

[77] Annette Griffin, *What Does It Mean That God Works in Mysterious Ways?*, Christianity.com (updated May 21, 2021), https://www.christianity.com/wiki/god/what-does-it-mean-that-god-works-in-mysterious-ways.html.

[78] Elise Hammond et al., *Manhunt Underway After Conservative Activist Charlie Kirk Shot Dead on Utah Campus*, CNN (updated Sept. 11, 2025), https://www.cnn.com/us/live-news/charlie-kirk-shot-utah-09-10-25.

[79] ABC News, *Full Speech: Erika Kirk Speaks at Charlie Kirk Memorial Service*, YouTube (Sept. 21, 2025), https://www.youtube.com/watch?v=JJyUV3t5310.

Part III

Epiphanies at Yale

Chapter Four

Everybody's Got to be from Somewhere

Yeah, I was scared alright. Here I was, a public high school kid from Evansville, an old river boat town in southern Indiana, and I found myself in Directed Studies, the first-year honors program at Yale College in which students read the classics like Plato, Aristotle, Thucydides and Dante. The rich kids from fancy eastern prep schools like Andover and Exeter, places that I had only heard of, kept using words in class like "epistemology" and "ontology" and I would go back to my dorm room and look up these new words to me in the beat-up old Webster's dictionary that Mom had thoughtfully given me to take with me to Yale.

Then it happened, like a bolt of lightning, an *aha* moment, like an "angel" speaking to me. We were sitting in a freshman lit class discussing Shakespeare, and somebody said something about "when the cock crows." Nobody knew what that meant – nobody except me, of course. I hadn't grown up on a farm in Indiana exactly. More like the suburbs of a medium-sized city that had encroached on what used to be farms. But yes, neighbors nearby did keep chickens, and I woke up every morning to the sound of the rooster crowing. Didn't everybody?

Then it hit me: ***everybody's got to be from somewhere***. I knew stuff they didn't know and vice versa. (Epiphany alert.)

Fast forward to law school: I am now looking out over a class of the best and brightest at Yale Law School. They are all very smart and come from diverse backgrounds, but all are top notch and very intelligent. How will I ever compete with them, I thought, particularly since we are all reading the same legal casebooks? Oops, that's it! The professors always mentioned one or two authors that they hadn't assigned. I'll go and read some of them too!

One of my favorite teachers in law school was Ellen Ash Peters,[80] later Chief Justice of the Connecticut Supreme Court and the first tenured woman faculty member at the Yale Law School. She taught contracts and related subjects, and she kept mentioning two authors named Corbin, who had been

[80] *Historical Profile: Ellen Ash Peters '54*, Yale Law School (Jan. 15, 2024), https://law.yale.edu/yls-today/news/historical-profile-ellen-ash-peters-54.

on the Yale faculty, and Williston, who had taught contracts at Harvard. They had written the two great treatises on contract law in the previous generation, so I went to the library and read a chapter or two from each of them. By then, I had studied literature in college and done a year of graduate school in English Literature at Yale before law school, as well as having studied in Germany, so I was used to analyzing texts and cultures and "seeing the world through someone else's eyes," as Mother used to urge me to do (by now, I need not remind you that is another pesky physical metaphor).

When it came to exam time, Professor Peters asked us to write an essay on some issue of contract law. I can't remember exactly what the exam question was, but I do remember my answer: I wrote here's how Williston would answer the question, and here's how Corbin would answer the question, and finally, here's how *I* would answer the question and how and why I disagree with both of them. Simple trick, but by exam time, I knew more about the subject than most of the other students who all sounded pretty much the same because they all read the same stuff and heard the same lectures. I think my insight came from playing cards and other games of strategy with my father growing up (epiphany alert).

I got an Honors in the course, but more importantly, Professor Peters became an advocate for getting the law school to hire me after graduation. Professor Peters eventually became chair of the hiring committee, and she and the then-dean Harry Wellington, for whom I had been a teaching assistant, recruited me back to teach at my *alma mater*, where I spent 45 years teaching and writing. Funny how one little epiphany can change one's life.

How Dean Wellington Recruited Me to Yale

Why I went back to teach at Yale Law School is a story too, maybe even an epiphany, if you can find it. Dean Harry Wellington was a labor lawyer and a great negotiator. At Ellen Peters' urging, he started trying to recruit me back when I was about three years out, after my two clerkships with two great federal judges, Gerhard Gesell and David Bazelon (see Chapter Three on mentors and disciples). By then I was having a great time trying cases in federal court (see Chapter Nine on how to cross-examine a misleading witness), so I would put them off by saying I was honored but it was too soon and I hoped they would get back to me again later. Finally, after two or three rounds of this, Dean Wellington called me up again and made me an offer I

couldn't refuse: he warned that this was the last time they were going to make me a job offer, because he said that they had found that if people stayed in law practice more than five or six years, they didn't make good academics. Too practical and not theoretical enough for Yale I surmise. I immediately accepted and promised to come, although I did put off my start date for as long as I could. I have often wondered whether what Dean Wellington had said about not making the offer again was true or just a negotiating tactic, but I didn't dare call his bluff to find out.

What the Two Wellingtons Taught Me About Yale – and Life

Harry Wellington and his amazing wife Sheila Wellington,[81] who served as Secretary of Yale University, the number three position in the university, became mentors to me after I got there as a young faculty member in 1981. I remember they invited me and my then wife Mary Ellen for a private dinner at their home. During the conversation at dinner, they complained that they felt like "outsiders" at Yale because they were Jewish. Here they were, the Dean of the law school and the Secretary of the university, and *they* felt like outsiders; at that moment, I realized that there is something about Yale that makes everyone feel like an outsider who doesn't belong. Maybe it is the *faux* Gothic and Georgian architecture? Anyway, I often tell the story of my dinner with the Wellingtons to students who are feeling – as many do at one time or another – that they got in by mistake and don't belong at Yale. I also share with them that I too was admitted in part on grounds of diversity: I was a public high school kid from Indiana and that was Yale's idea of "diversity" at the time. See how the disciple thing works: I pass on the insight that the Wellingtons shared with me to the next generation and maybe some of them will remember it and pass it on yet again.

The lesson I learned from these prosaic events is that **everybody is from somewhere**, and therefore knows certain things and but doesn't know other things. The challenge is to figure out how to make good use of what you do know and to figure out a strategy for learning what you do not know but would benefit from knowing. The latter often involves reading books by

[81] *See* Claudia H. Deutsch, *At Lunch with Sheila W. Wellington; In a Marriage of Equals, Why Create Obstacles?*, N.Y. Times (Aug. 29, 2004), https://www.nytimes.com/2004/08/29/business/at-lunch-with-sheila-w-wellington-in-a-marriage-of-equals-why-create-obstacles.html.

mentors who know more about something than you do. (See Chapter Nine about how to cross examine a misleading witness.)

Chapter Five

Tell 'em What You Know, NOT How You Know It

The life lesson in this chapter is one I learned in law school, but as you'll see, it served me well in private law practice, including in landing a big client.

I was privileged to have as one of my teachers in law school the great Alexander Bickel. He was justifiably famous, in part because he argued the famous Pentagon Papers case in the Supreme Court.[82] Little did I know at the time that that case was the first and only case he ever argued there – and that's one aspect of this epiphany: **sometimes what you don't know is even more important than what you do know**.

Bickel was a great constitutional theorist and his book *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*[83] is a classic in the field. Bickel was a moderate conservative in the tradition of Edmund Burke. By that I mean he was not a strict constructionist (or what today we might call a "textualist") but instead believed that the law does and should evolve to reflect changing social mores, particularly when the court are construing broad constitutional terms such as "liberty" and "unreasonable searches and seizures." (My Yale College roommate Richard B. (*aka* "Chip") Hayes, a New Testament scholar,[84] was famous among other things for the parallel idea that even God can change his mind.[85])

Today my own views are close to Bickel's,[86] but not so when I was his student. I was a hippie, living with my girlfriend in a group house that we called a "commune," and spending most of my time when I wasn't in class

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[82] *New York Times Co. v. United States*, 403 U.S. 713 (1971), https://supreme.justia.com/cases/federal/us/403/713/ .That case involved an unsuccessful attempt by the federal government to enjoin the publication of a classified document about the origins of the Vietnam War that had been leaked by Daniel Ellsberg, and was a cause célèbre at the time. It is an important precedent that establishes a very high burden again "prior restraints" that prohibit free speech, although it does leave open the possibility of some types of criminal prosecution after the fact.

[83] Alexander M. Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics* (Bobbs-Merrill Co. 1962), https://www.amazon.com/dp/0672607573.

[84] R*ichard Hays, Former Dean and Professor of New Testament, Dies at 76*, Duke Divinity Sch. (Jan. 6, 2025), https://divinity.duke.edu/news/richard-hays-former-dean-and.

[85] *See* Peter Wehner, *'A God Who Continually Surprises Us': A Q&A with a Theologian Who Changed His Mind About Gay Marriage*, N.Y. Times (Nov. 24, 2024), https://www.nytimes.com/2024/11/24/opinion/gay-marriage-religion-theology-us.html?unlocked_article_code=1.MFA.Yeoo.AGR1_Xw4Zwr7&smid=url-share.

[86] *See* E. Donald Elliott, *Monomaniacal Textualism Undermines Congress's Power of the Purse* (Yale Law & Econ. Research Paper, Feb. 1, 2025), https://ssrn.com/abstract=4920116.

representing indigent clients through the local legal aid office. See Chapter Eight about my mentor there, Frank Xavier Dineen,[87] one of the true saints *aka* "sons of God" that I have been blessed by having known.

I spoke up a lot in Bickel's class, mostly to argue with the great man who knew far more than I did. Only years later, after I joined the Yale Law School faculty, did I learn that he must have been at least mildly impressed; an older member of the faculty who knew both of us told me years later that Bickel used to walk into the faculty lounge and say, "You know what that guy Elliott said to me in class today …." That's one of reasons I got hired by my *alma mater*, and it exemplifies one of the features that makes the Yale Law School great: we like it when a student thinks for himself or herself and makes a good argument against what the teacher is trying to teach them!

One valuable trick I learned in Bickel's class was to think for a little while before speaking and even jot down a few words as notes of the points I wanted to make in the right order before raising my hand. That technique has served me well in arguing appellate cases: when the judges ask difficult questions, I sometimes ask them to repeat the question and step back from the podium for a moment or two before answering. I find that my second or third thought is usually better than my first reaction. (epiphany alert).

I share this little pearl of wisdom with students in class who start talking before their ideas are clear in their own mind. Making that mistake results in their rambling on as they grope to make their point. My ex-wife's father, Charlie Savage, a former naval officer and engineer, had a pithy way of putting the point: "Engage brain before running mouth," he used to say.

One day in class Professor Bickel was talking about a particular case and noted as an after-thought that the case was to be found in volume 345 of the *U.S. Reports*, the official publication series that prints Supreme Court opinions. Like my classmates, I was deeply impressed. "Gee, this guy not only knows the cases; he knows the citations," I remember thinking. I decided to emulate him by memorizing a citation or two to use on the bar exam.

But Bickel then made a mistake: he went to the well too often, and said the same thing for another case, and then another, with all three to be found in volume 345. Believing as I do that there are no coincidences, I went to the

[87] *See Yale Law School Mourns the Passing of Francis X. Dineen '61*, Yale L. Sch. (Sept. 26, 2019), https://law.yale.edu/yls-today/news/yale-law-school-mourns-passing-francis-x-dineen-61.

library and took volume 345 down from its place on a dusty shelf. I discovered that it collected opinions from 1952-1953, the term when Professor Bickel had been a law clerk on the Supreme Court. That de-mystified his magical trick of reciting citations; anyone who had worked on a case as a law clerk would remember when it was decided and therefore in which volume the opinions appear. The epiphany here is **tell 'em what you know, but not <u>how</u> you know it**. The class would have been much less impressed if Professor Bickel had said "The case is volume 345. I know that because I was clerking on the Court that year."

(By the way, there is also a second lesson in this epiphany, as there often is: **if you perform a magic trick, don't repeat it too often or the audience may see through it**.)

Fast forward thirty years or so and now I am a practicing lawyer as well as a law professor. The largest copper producer in the U.S., then Phelps Dodge, now part of Freeport McMoRan Copper & Gold, Inc., operated a copper rod mill in Norwich, Connecticut. A rod mill takes huge copper ingots weighing hundreds of pounds each that have been smelted from ore elsewhere, melts the ingots down into liquid form and casts them into long rods a few inches in diameter. The rods are then sold to wire manufacturers that force them through a series of progressively smaller metal dies to make copper wires of various thicknesses.

However, the State of Connecticut was trying to apply a very stringent pollution limit to the plant that only applied to "smelters," which make the copper ingots from the ore using massive furnaces that release far more pollution than rod mills do. The company legitimately thought that the regulation for smelters did not apply to their plant because it was not a smelter. Whether they were right about the legal issue turned on what the Connecticut Department of Environmental Protection (CT DEP) had said in defining what was or was not considered a copper "smelter" when it promulgated the rule.

For over a year, Phelps Dodge had been trying to get access to those documents without success. They had even hired one of the biggest and best law firms in Connecticut, Wiggin & Dana, who are traditionally Yale's principal lawyers, to bring a lawsuit against the CT DEP to try to get the relevant documents under Connecticut's version of the Freedom of Information Act.

The case had gone on for over a year racking up substantial legal fees without success and with no end in sight.

Meanwhile, I was representing an environmental consulting firm headquartered in Connecticut named TRC. The then-general counsel of TRC, John Claussen, a former colleague and friend of mine when we worked together at GE, had mentioned to me that TRC has just hired the former head of the air program at the Connecticut DEP. I called up the former DEP staffer and asked if he could help me get the documents Phelps Dodge wanted. He said, "Sure, I made copies of a lot of the key documents from the air program's files before I left. They are stored in boxes in my garage. I'll go through them and see what I can find." He called me back the next day and said he did indeed have the key documents that Phelps Dodge wanted, and he'd be glad to send a copy to me. I called up Phelps Dodge and told them I thought I could help them get the documents they were looking for **but I did NOT tell them HOW I was going to get them**.

Phelps Dodge had the documents supporting its argument that its plant was not a smelter within 24-hours, which saved them millions of dollars. They then did what any self-respecting company would do – they fired the big law firm that had been representing them and hired me to represent the plant instead. We went on to have a long attorney-client relationship. I got to know the people at Phelps Dodge's headquarters in Phoenix, and they hired me to represent the company on numerous other matters

And no, I don't feel bad about helping a big company avoid more stringent pollution controls in this case; copper is a necessary nutrient, and most people are copper deficient. Consequently, the trace amounts of copper particulate in the air that settled into the stream next to the plant were actually good for most people, but EPA policy at the time precluded considering any benefits from pollution.

But imagine that instead of just saying to Phelps Dodge that I could help them, I had told them instead "by coincidence I just happen to know a guy who used to work at DEP; he might have a copy; let me call him." Had I done that, they might have said "thank you" but I doubt they ever would have hired me. But by then, I had learned a valuable lesson from Professor Bickel's example: ***Tell 'em what you know, but NOT how you know it***.

Perhaps I grasped that point because when I was a teenager, I had been an amateur magician. A lot of magic tricks depend upon "misdirection," distracting the audience with a loud bang or good-looking, scantily clothed assistant so that the onlookers do not see a simple but undisclosed mechanism, which is called a gimmick or sleight of hand in the magic trade. A lot of miracles work that way too. There is a simple explanation behind a lot of them, but to those who don't understand the mechanism, it looks like magic.

For example, one of Jesus's most famous miracles is the feeding of the five thousand. Jesus reportedly fed a massive crowd—5,000 men plus women and children—using only five loaves of bread and two fishes from the lunch that a little boy brought forward to share with the crowd, as is recorded in all four Gospels.[88]

Could it be that the moral of the story is not magical food creation, but the life lesson that sharing is contagious, and that the little boy's example inspired others to share the food that they had brought with them and as a result, there was enough for everyone? Ask yourself which interpretation is more important: that some guy who lived over two thousand years ago found a way to magically manufacture large quantities of fish and loaves of bread using some technique that has since been lost to history, or that sharing is contagious and we should practice it publicly in our daily lives?

Yes, I do know there is also a third explanation that this event somehow proves that Jesus is the "son of God."[89] I'm down with that if we translate the idiom "Son of God" correctly as meaning a wise man, a guru or buddha, from whom we can learn a lot. See Chapter One.

When we (mis)interpret miracles as "magic," in my opinion we are usually missing the real point. This is a book about what skeptical lawyers like

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[88] Matthew 14:13–21 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Matthew+14%3A13-21&version=RSV; Mark 6:30–44 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Mark%206%3A30-44&version=RSV; Luke 9:10–17 (New International Version), https://www.biblegateway.com/passage/?search=Luke%209%3A10-17&version=NIV; John 6:1–14 (New International Version), https://www.biblegateway.com/passage/?search=John%206%3A1-14&version=NIV.

[89] *See* John 20:30–31 (English Standard Version) ("Jesus did many other signs in the presence of the disciples, which are not written in this book; but these are written so that you may believe that Jesus is the Christ, the Son of God, and that by believing you may have life in his name"), https://www.biblegateway.com/passage/?search=John%2020%3A30-31&version=ESV.

me and others who do not believe in magic can learn from the Christian tradition.

And yes, I do believe that “God,” or the order of the universe, or Karma or whatever else you want to call it, shares with us epiphanies not only about weighty matters such as what really matters in life, but also about more mundane things like those in this and the other chapters in this book about some lessons I learned in the law.

Part IV

The Darkness and the Dawn

Chapter Six

How I Learned that Prayers Are Answered

I have been blessed far beyond my just desserts. That's true in most aspects of my life, but here I am going to focus on the one blessing that I consider the single most important: how after forty years of searching, I finally found my other half, the person with whom I spend most of my time and who has had the biggest influence on me for good, my remarkable wife Gail Charnley Elliott PhD. For over 25 years now, I have been married to this earth angel that God sent my way. What follows is the remarkable story of how this modern miracle happened.

How I Found Happiness in Gail's Love

I am a very happy man today and blessed far beyond my just deserts, but 'twas not always so. I struggled for over thirty years through various relationships that failed, often as a result of my faults. But those are tales for another day, plus I believe we learn more from studying successes than failures. "Happy families are all alike; every unhappy family is unhappy in its own way," writes Leo Tolstoy in the epigram to Anna Karenina.[90] (Epiphany alert).

So for purposes of argument, or as we lawyers say *arguendo*, please grant me the premise that I am happily married to a spectacular woman who is loving, kind, giving, brilliant, sexy and beautiful. A dream come true. I am not bragging; I am sharing how the most important thing in my life to date transpired and more importantly, what I learned from it. I'll put my cards on the table this time: **I learned that prayers really can be answered, although I don't know how**. You can judge that for yourself. Granted, the answer to our prayers is not always what we want; we can't order God around; but we can learn to live in harmony with the universe. That's what Mother had tried to teach me, slow pupil that I was, by teaching me and my sister Jane to end every prayer with "not my will, but thy will."

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[90] Leo Tolstoy, *Anna Karenina* at p. 3 (Constance Garnett trans., Random House 1939) (1877), https://www.amazon.com/dp/B000B8WFYU. For an explanation see, *Anna Karenina principle*, Wikipedia (updated Feb. 13, 2026), https://en.wikipedia.org/w/index.php?title=Anna_Karenina_principle&oldid=1338156127.

Now I not just saying nice things about Gail out of a fear that she will read this someday. No, she earned an undergraduate degree in biochemistry from Wellesley and PhD in toxicology from MIT, and headed the toxicology program at the National Academy of Sciences. She is wise as well as intelligent; delights in feeding those she loves delicious and nutritious food, much of it from her own privately printed cookbook that she gives to family and friends; looks like a model twenty or thirty years younger than her chronological age. Really. A huge photo of Gail, a redhead, and two of her girlfriends, a blond and a brunette, once hung above the bar at a watering hole in the center of Georgetown. Her greatest love gift to me was turning down two prominent jobs in government as head of two different federal administrative agencies to love and take care of me and her elderly mother.

But Gail is a human being like the rest of us. She is not perfect, so she asked me to add this paragraph. She is a first-born daughter[91] who is willful, even stubborn; she is detail-conscious to the point of being anal-compulsive and she finds it hard to admit when she is wrong. Plus she blames her misconception of "God" for taking her father from her via premature death from colon cancer when she was only thirteen. That tragic event helped to make her the remarkable woman that she is today, for both good and ill – thereby illustrating the epiphany that I discussed above in Chapter Two that inside every challenge is hidden a blessing.

How I Won Gail's Heart

But I digress. The question is how I won the heart of this amazing but admittedly imperfect earth angel who has made me very happy and a better human being for over 25 years now. It was not always thus, and to understand how this miracle -- and yes, I do mean that word -- happened, we need to go back a few years.

I had the head start in life that comes from having had two amazing parents. My Dad was a star high school athlete in Chicago and then a war hero. He went into the army during World War II as a private and came out as a major with a silver star (the second highest medal right below the Congressional medal of honor) and two bronze stars for heroism in battle. He would almost never talk to me about his exploits. Most of what I know I

[91] *See generally Is 'Eldest Daughter Syndrome' Real?*, Cleveland Clinic (Oct. 17, 2024), https://health.clevelandclinic.org/the-deal-with-eldest-daughter-syndrome.

learned from my mother who had read the citations for his medals that were buried in a dusty black trunk in our basement. Dad, for whom I am named, had fought his way across France with Patton's Army until he was wounded in battle. A German Panzer tank fired into a brick wall and Dad was on the other side and was showered with shrapnel. He completely lost any feeling in his left arm. Dad woke up under an apple tree being tended to by a beautiful French nurse. He thought he had died and gone to heaven. However, his leg started to hurt. He started to cry not from the pain but because he realized that he wasn't dead after all and so he prayed and thanked God for the gift of life. That kind of guy.

Dad was deeply religious, in part because of his experiences in the war. Our family attended First Presbyterian church in Evansville, Indiana regularly. I was exposed to religious ideas there but did not understand or accept them until later in life. This is not only the story of how the angel Gail came into my life, but even more importantly, how I began to understand some things about how life works that my parents had tried to teach me, but I did not comprehend until later in life. Much to their credit, they gave me the building blocks to interpret the epiphanies that my life presented me with later in life and to enable me to learn life lessons from my experience. I know that not everyone has had the blessing of two such wise and giving parents and it is for those people as well as myself and my children and grandchildren that this essay is written. It isn't the same as being raised by two wise and loving parents, but I hope that maybe it will help some people make more sense of their experience, and it certainly helps me to reflect and then try to write down what some of things that happened to me really meant.

An Epiphany My Dad Shared

As a boy and a young man, I was filled with doubt; that's one of the reasons I became a lawyer rather than a professional minister. I once asked my Dad whether prayer really worked and was there really a "God" who heard our prayers? He smiled a gentle smile and said simply, "You'll know it when it happens to you." And then he told me one of the few stories he ever told me about his experiences in World War II. Seems Dad was hunkered down in a foxhole that was being shelled by the Germans, and he sensed that God was speaking to him and telling him to get out of that foxhole right now. He did. Now, this exit made no sense whatsoever from a rational perspective. Bullets were whizzing all around him and artillery shells were exploring nearby.

Getting up and running out of the foxhole exposed him to enemy fire. Sure enough, shortly after he exited, a German shell struck the foxhole in a direct hit and all the men in it were instantly killed.

"**When God speaks to you, you'll know it**, Buddy," he said. I shrugged dubiously, thought it was probably just a lucky coincidence, but stored it up in my heart like Mary in the Bible,[92] hoping that maybe someday I would understand what Dad's story meant. I'm kinda slow sometimes. It took me almost three decades before I really understood what Dad was trying to teach me.

The Darkest Days in My Life

Fast forward about twenty-five years and I'm now a tenured professor at Yale Law School with two kids, two cars, a pretty, intelligent wife in medical school and a mortgage on a lovely large colonial house on tree-lined McKinley Avenue in New Haven. The American Dream, right? Until she kicked me out. It wasn't her fault. I had been a less than perfect husband. Yeah, I paid for her medical school and met the children at 3 pm every afternoon when they came home from school and made them dinner and put them to bed every other night while she spent the night in the hospital learning to be a doctor. Those years as a "house husband" were among the happiest years in my life. But, among other issues, I had problems with the fidelity thing. But regardless of who was at fault, she kicked me out and I hit rock bottom.

I found myself living in a tiny, rented room in Stony Creek, Connecticut a small former fishing village on the coastline about ten miles northeast of New Haven. Picturesque place, but suddenly I had no life. I thought about suicide but Mother, a lifelong teacher, had taught me and my sister to say to "this too shall pass"[93] over and over if we ever thought about suicide, followed by "Satan get thee hence." (No, I didn't know at the time why she used the outdated lingo; that phrase had been passed down for generations and I remember Mom saying her mother had taught it to her; it turns out that it is a quote from Jesus in the King James Version of the Bible).[94] In any case, those

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[92] Luke 2:19 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Luke%202%3A19&version=RSV.

[93] Clement Harrold, *Is "This Too Shall Pass" in the Bible?*, St. Paul Center (Feb. 6, 2025), https://stpaulcenter.com/posts/is-this-too-shall-pass-in-the-bible.

[94] Matthew 4:10 (King James Version), https://www.biblegateway.com/passage/?search=Matthew%204%3A9-11&version=KJV.

inspiring words passed down through the generations helped me in the worst days of my life – see how Jesus's spirit lived on through his words preserved in the Bible and helped me in my darkest days? It not only helped me reject suicide, it also helped me get my life moving in a positive direction, which is what comes next.

My Rough Draft Prayer

After I decided with Mom's (and Jesus's) help not to end my life, out of desperation, I turned to God in prayer. I wasn't sure that I even believed that God exists – and I still don't if you mean by "God" a little man who lives in the sky with a long beard and runs everything down here on earth. No, it was more my version of Pascal's famous argument for faith: it doesn't cost much to try, and even if the chances that it is true are low, the rewards are potentially huge.[95] Kinda like why people play the lottery. (The technical term in economics is a large expected value despite a small probability of success because a large payoff if it does happen.)[96]

I had once heard a sermon that pointed out that Jesus did not restrict the things we might ask from God in prayer, and having someone with whom to share my life seemed like the most important thing in my life at that time. So I asked "God" to send me what I thought I wanted. I asked for an attractive young blonde who was a good cook and very smart – and oh yes, with big tits too. I'm not proud that I was so superficial, but I am being honest.

And like magic she appeared. To be more precise, she had been there all along and I just didn't see her. She had been a student of mine at Yale Law School five years earlier and had even been my research assistant. I remember I was struck by her great physical beauty one day when my children and I happened to sit behind her at a Yale football game, but I never hit on her while she was a student. By then Yale had a policy that it was a firing offense for professors to date students, even if they were both consenting adults. But years later after Mary Ellen and I had separated I thought it would be okay because it had been five years since she had been my student and by then she

[95] Blaise Pascal, *Pensées* at pp. 66–68 (W. F. Trotter trans., E.P. Dutton & Co. 1958) (1670), https://www.amazon.com/Pascals-Pensées-Blaise-Pascal/dp/B0FQPGKHZL. For an accessible explanation, Paul Saka, *Pascal's Wager About God*, Internet Encyclopedia of Philosophy, https://iep.utm.edu/pasc-wag/.
[96] *Expected Value*, Datarails, https://www.datarails.com/finance-glossary/expected-value/.

was working as a young environmental lawyer at a national law firm in Washington in the building right next to my law firm's.

By then I was working two jobs, as a full-time law professor at Yale and a full-time environmental partner in a big national law firm, Paul Hastings Janofsky & Walker. I did that so my two kids whom I loved dearly (and still do) would not have to drop out of their private school or move out of their home when their mother and I got divorced. But then I discovered that I liked doing both at once. Most of my competitors did one or the other, and I discovered that doing both gave me a rare perspective and a competitive advantage in both jobs because I saw things that other people didn't.

That's two important lessons too, in case you are not paying attention: (1) sweet are the uses of adversity, to quote Shakespeare, or as my daughter who is wise beyond her years puts it "when life hands you a lemon, make lemonade" and (2) our competitive advantages come from how we are different from most other people. See Chapter Four "Everybody's Got to Be from Somewhere."

But back to the first dream-come-true woman that "God" sent me. She and I became an item. She was from Alabama, a great southern cook; very smart and very sensual. She also had a transfixing sense of ironic humor. The first time I asked her out she said, "Yeah. You still have your hair. I'll go out with you." (Again, for those who aren't paying attention, that presages a big problem for us as a couple; it is literary trope called foreshadowing;[97] authors do it a lot in detective stories.)

My Alabama dream girl was always kind and loving to me. She traveled out to Indiana with me a few times to help me care for my dying mother. She also played a good two-on-one basketball game with me and my young teen son Ian. I thought I was going to marry her, and I probably would have but for what happened next.

Mom's Visions

Despite all of Miss Alabama's kindness to my mother, Mom announced one fine day in Indiana that she was not going to leave my then girlfriend one of her prized possessions, antique crystal water goblets in the wheat pattern,

[97] Evan Gottlieb, *What Is Foreshadowing?*, Oregon State University College of Liberal Arts (Sept. 2, 2019), https://liberalarts.oregonstate.edu/wlf/what-foreshadowing.

when she died. "I just sense that there is going to be someone else, Donnie," she explained to me privately one day. Mom was like that. I am convinced that if she had lived in an earlier era she would have been burned as a witch, because she saw a lot of things that other people did not see. Some of them were actually there. I think that I became an environmental lawyer in part because I was fascinated by which of the many risks that Mom saw lurking around every corner were real and which were not. Her paranoia was not her fault; when she was a pre-teen, her cousin David had been killed in front of her when he ran out between two parked cars while they were playing together.

I was generally skeptical of Mom's visions. But by then, I had learned that you couldn't be too quick to disregard the old lady's prophecies. A few years prior, she had literally saved my life. I was scheduled to fly from DC to Columbus, Ohio for the funeral of Russell B. Bope, my grandfather and her father. About 7 a.m. the phone rang in my apartment in DC. It was Mom. She said "Don't come. The weather is bad." And hung up. For reasons I still do not understand to this day, I obeyed her and went back to bed. The plane I was booked on for the trip back to DC crashed and everyone on it was killed. No lie. Check it out. TWA flight #541 on December 1, 1974.[98] I remember distinctly sitting in my apartment on Connecticut Avenue in DC one fine Sunday morning listening to classical music on FM radio and hearing the program interrupted by the announcement that the plane I was supposed to be on had crashed and everyone on it was killed.

Of course, that experience changed my life. I learned that every day is a precious gift and we should try to spend each day as we would if we knew it was our last day on earth. I have tried to live by that maxim, but of course, being as human as the next person, I often fall short. For years, I would start each day by thanking Providence or "God" or whatever else you want to call it for the gift of another beautiful new day. I recommend that practice as a good start for the day.

Why I Didn't Marry My First Dream Girl

Anyway, the reason I didn't marry my Alabama dream girl, assuming that she would have had me, was not just that my prescient Mom wouldn't give her

[98] *Boeing 727-231: Trans World Airlines Flight 514, N54328*, Federal Aviation Administration, https://www.faa.gov/lessons_learned/transport_airplane/accidents/N54328.

the prized water goblets (which, by the way, Gail now treasures; that's one clue when we are on the right path; everything starts to fit together and fall into place.) The water goblet thing was merely Mom's foreseeing the future as she did with unsettling regularity. No, there were other problems with my relationship with the Alabama dream girl.

First, she was fourteen years younger than I, as she had noted with her remark about my still having my hair when she first agreed to go out with me. That wasn't much of problem when I was in my forties and she was in her mid-thirties, but I could see that we would be in very different stages of life when I was in my seventies, and she was in her fifties. But I probably would have discounted that as a long way off, except for something else that happened: she went off to Alaska on vacation without me and without even talking much with me about it first. I think maybe she told me, but she didn't offer to bring me along or to modify her plans to include me. I considered that a fundamental breach of our relationship as a couple and I was quietly furious. Maybe she didn't consider us a committed couple although I did.

I have often wondered why I didn't just confront her and get it out of my system, but I didn't. Maybe I was wrong, or possibly this was supposed to happen; I don't know. No, I did something even more radical than having an argument with her about her trip: I prayed to God again. I started by thanking "God" for sending me what I had asked for in a mate and acknowledging that it had worked like a charm. But this time, I asked "God" to send me not what I wanted, but the person whom he/she/or it thought was the woman that I should be with.

My wise and loving mother had taught my sister Jane and me to end every prayer with "not my will, but thy will." I never really understood why, but I repeated those words by rote. But by the time I was nearing fifty, I was beginning to understand what those mandatory words at the end of every prayer signified, as I explain in the next section.

How God Calls Us

In the Presbyterian church where I grew up, we were taught that we should not try to pick our profession; that would be trying to impose our will on the galaxy, which doesn't work well; no, rather one should try to "find one's calling." The idea is that we are all suited to do something and it is our task to figure out what it is that we are called by Providence etc. to do. I still have a

copy of the "Teen of the Week" profile of me in the local Evansville Indiana newspaper when I was a junior in high school; I was asked what I wanted to be when I grew up, and I said without a moment's hesitation "a professor of jurisprudence." Pretty arrogant for a high school junior in public high school in southern Indiana. I don't know where that came from but somehow it worked out. Going into environmental law was more problematic: I repeatedly resisted what I was being called to do. The specifics are worth a short detour just to illustrate how this stuff about being "called" works.

I was first inspired to go into environmental law by the books written by the late Barry Commoner,[99] a biologist at Washington University in Saint Louis. (See how his spirit lives on in the amazing books he wrote, but also through me and the disciples that I have taught because he inspired me to devote a large part of my life to protecting the environment?) But for quite a while I was willful and resisted what "God" was calling me to do with my professional life.

After clerking for Judge Gesell, I moved upstairs in the courthouse to become a law clerk for David L. Bazelon,[100] chief judge of the United States Court of Appeals for the District of Columbia Circuit, the court right below the Supreme Court that rules on most of the cases from administrative agencies. I had gone on to clerk for Judge Bazelon because he was the judge in the country most thoughtful about the relationship between law and science,[101] which interested me and still does. However, at that time, "law and science" was primarily about the insanity defense, or so I thought.

Judge Bazelon typically had one law clerk from Harvard Law and one from Yale Law, and he assigned the insanity defense cases to my co-clerk from Harvard and the environmental and other agency cases to me. Like my friend Randy Shepard whose epiphany I related above, I was distraught and thought that my professional life was ruined. I remember that Judge Bazelon took me aside and in his kindly manner comforted me with words to the effect that the environmental cases were more important in the long run. He was right, of course. The first case that I worked on was Ethyl v. EPA[102] which

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[99] *Barry Commoner*, Columbia University, https://c250.columbia.edu/c250_celebrates/remarkable_columbians/barry_commoner.html.
[100] *Bazelon, David L.*, Federal Judicial Center, https://www.fjc.gov/history/judges/bazelon-david-l.
[101] *See Our History—An Overview*, Bazelon Center for Mental Health Law, https://www.bazelon.org/about/history/.
[102] *Ethyl Corp. v. EPA*, 541 F.2d 1 (D.C. Cir. 1976), https://law.justia.com/cases/federal/appellate-courts/F2/541/1/139255/.

upheld EPA taking the lead out of gasoline. Judge Bazelon cast the deciding vote. It has gone down in history as one of the best decisions for protecting public health that EPA ever made.[103] But as a willful recent law school graduate in my late twenties, I still resisted what I was being called to do by experience, fate or "God."

When it came time to get a "real job" after my two clerkships, I decided to join a medium-sized law firm that didn't have an environmental practice in order to get more trial experience. I'd been there only a few months when a memo came around asking if anyone had any experience with environmental cases because the firm had just hired W. Roger Strelow,[104] one of the founders of EPA and the first head of its air and water programs. I volunteered and Roger became one of my best friends and mentors; we still email one another two or three times a week.

But I STILL resisted. When I went up to Yale to start teaching in 1981, I primarily taught civil procedure, constitutional law, complex civil litigation and other courses about litigation with a little environmental law thrown in on the side. But then Yale's primary environmental lawyer at the time, Bruce A. Ackerman,[105] who also became one of my mentors, left to go to Columbia Law school, leaving me at Yale Law's only environmental lawyer at the time.

I resisted yet again what I was being called to do. Finally, I got the opportunity to become the General Counsel of the EPA, a presidential appointment as the top lawyer and leader of an office of 250. I took that opportunity, and finally accept my destiny, saying to myself, "Okay, Don, you're an environmental lawyer Now." And that is what most of my professional work and writing has been about ever since.

See the pattern: like my friend Randy, **be careful what you wish for and do not try to impose your will on the universe; instead listen to what "God" is trying to tell you**. That is what Mom was trying to teach us by ending every prayer with "not my will but Thy will."

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[103] *See* E. Donald Elliott, *A Critical Assessment of the EPA's Air Program at Fifty and a Suggestion for How It Might Do Even Better*, 70 *Case W. Rsrv. L. Rev.* 895 (2020), https://scholarlycommons.law.case.edu/caselrev/vol70/iss4/6/.

[104] *Roger Strelow (US'60, C'64), 2023*, Principia Alumni and Friends, https://www.principiaalumni.org/community/awards/dka-alumni-award/strelow.

[105] *Bruce Ackerman*, Yale Law School, https://law.yale.edu/bruce-ackerman.

Anyway, back to how I learned that prayers are answered.

My Most Successful Prayer

I had figured out by the time that I was alone and unhappy after the breakup of my almost twenty-years long marriage to Mary Ellen that maybe the "not my will but thy will" principle might work for finding a mate as well as a career, so I asked "God," whatever that may be, a second time for the woman that he, she or it thought that I *should* be with rather than telling "God" what I wanted. Sure enough, it worked like a charm the second time too! I woke up the next morning, and it was perfectly obvious to me that I should call the young woman whose business card I had kept for three years in the center of my desk but had never called. That was Gail, who became the great love of my life.

Yeah, I do know that this wasn't fair to Miss Alabama. I still feel guilty about that, and I have often pondered how my life would have been different had I not been so hot-headed, which is one of my greatest weaknesses. One of my sadder moments in my life was when I had to tell that lovely young woman that I was breaking up with her. She cried and protested "But you made me feel so beautiful." I had the presence of mind to reply sincerely and truthfully, "You ARE beautiful!" (By the way, that's a partial answer to Ian's question in the next chapter about how a nerd like me ended up with beautiful women: I saw beauty in them that others did not see and that helped to bring it out and they became even more beautiful. See Chapter Seven).

Plus I know now, but I didn't see then, I didn't really love Miss Alabama; I wanted to love her, and I thought I did at the time; I admired her and I liked her a lot and she was everything I thought I wanted. But when I met Gail, she just blew me away. That's another thing Dad had told me, but I didn't understand until it actually happened to me. He said one time, "Donnie, don't marry anyone until you absolutely cannot think of doing anything else." I wanted more than anything to be happily married again, and I was trying to talk myself into marrying Miss Alabama. There I go again trying to impose my will on the universe. See the pattern here? **Not my will but thy will**, as Mom had tried to teach me.

Anyway, Miss Alabama went on to make a happy life with a husband and a child and a great career as an environmental lawyer, the subject I had taught her at Yale. I am convinced that what I did was for best for both of us, but I did

it because I thought that it was right for me. Sadly, she still doesn't speak to me. I hope that someday she will forgive me. She is remarkably beautiful today, not just physically but in spirit as well. I'd like to think that knowing me had something to do with her coming out of her shell of shyness and blossoming into the woman she is today.

How to Tell If "God" or "Satan" is Speaking.

Assuming that "God" still "speaks to us" today, how are we to recognize "God's" voice among the welter of random thoughts that come into our minds? That's a hard one and I'm not at all sure that I know the answer, but I can share a few clues:

(1) **Prayer.** If you have prayed to your God about what you should do about a problem that has been vexing you, and you wake up in the morning and suddenly the answer is clear as a bell, that is probably "God," as I understand the term, speaking to you.

(2) Plausibility. The second criterion is more difficult to apply but even more important. Ask yourself is this the kind of guidance that the "God" that you know would provide? If the voice in your head tells you which stock to buy to get even richer, or how best to seduce the attractive young woman sitting in the pew in front of you, you can be pretty sure that is NOT God speaking to you. No, the more than we know about "God" from reading the Bible and going to church, the easier it is to recognize "God's" voice when he, she or it speaks to you.

(3) **Revelation.** One more thing: when "God," or whatever you want to call it, speaks to me, I hear this voice in my head, sometimes called an internal monologue, but that voice is *telling me something I didn't think I already knew*. This principle is sometimes called the doctrine of "revelation" in Christian theology.[106] Alcoholics Anonymous counsels people who need help not to pray to any particular version of "God" but rather to appeal to their "higher power," whatever it may be. The point is that somehow "God" enables us to tap into a wisdom greater than our own.

How Revelation Works

[106] Keith Mathison, *The Reformed Doctrine of Special Revelation*, Ligonier Ministries (June 10, 2013), https://learn.ligonier.org/articles/reformed-doctrine-special-revelation-what-it-and-what-it-isnt.

Perhaps we knew something all along deep down and were just blind to see it until "God" spoke to us and pointed out the way. That's why I mentioned above that I had been acquainted with both Miss Alabama and Gail for years before I approached them; I just didn't really see them until I prayed and asked for God's help and then I saw clearly what I was called to do.

I don't claim to understand the mechanism. It has occurred to me that maybe the answer was in our brains all along and we just weren't able to hear it. Maybe prayer is a form of meditation that helps us connect data in our brains that has gotten lost and isn't usually accessible, like doing a global search on your computer. That possibility is consistent with the fact that it seems to help me to pray at night, and then the answer is clear in the morning. I really don't care much about *how* it works; I am just sharing that it *does* work; it has happened to me, just like Dad said it would. Try it. When it happens to you, you'll know it too, like Dad told me long ago, and as is recorded in the story of Doubting Thomas in the Bible.[107]

Until recently I misunderstood that parable and thought it meant that Thomas was a bad guy and that we weren't supposed to have doubts. No, wrong again. Duh. I now think the point of that parable is what Dad tried to tell me when he said I'd believe that God answers our prayers when it happened to me. A related point is that those of us who have experienced the reality of hearing God's voice should share it with skeptics and urge them to try it for themselves, which is called "witnessing" in the Christian tradition.[108] Witnessing is different that "preaching," which comes later for those who have decided to follow Christ's example. Witnessing means sharing the good news of your experience with others so they can try it for themselves, or so I currently think.

[107] John 20:24–29 (New International Version), https://www.biblegateway.com/passage/?search=John%2020%3A24-29&version=NIV.

[108] *What Is Christian Witnessing?*, Jesus Film Project, (Oct. 12, 2020), https://www.jesusfilm.org/blog/what-is-christian-witnessing/.

Chapter Seven

A Nerd Like Me

My son Ian was about sixteen when he asked me one fine day "Dad, how come a nerd like you ended up with two such beautiful women" as Gail, my current wife of 25 years and his mother, Mary Ellen, my ex-wife to whom I was previously married for 20 years. They both are indeed lookers as well as being very intelligent; one is a PhD toxicologist and other an MD, but they both look like models. The picture below is Gail and me at her 60th birthday party. (No, that's not a misprint.)

Here she is today at 70.

Now I must confess that I was initially a little miffed to be called a “nerd” to my face. I had hoped my son wasn’t going to notice, but it was true, of course. Then I began to realize that his question was a sincere request for information from a young man who wanted to duplicate my success in attracting desirable members of the females of our species – so I set about to try to answer him honestly.

The first thing that occurred to me was "I had a sister." Just like he does. And an intelligent mother. Just like he does. I knew that women were people too, and that you could talk with them and respect their opinions. My mother, for example, saw many things most people don't see.

That helped answer his question, no doubt. But what about laughing? I know how to make Gail laugh. I am about the only one who does. Yes, that helps too.

But I think the breakthrough for me came when an "angel" in the form of my then-law school dean Harry Wellington revealed the truth to me. My then wife Mary Ellen who was in medical school and I were having dinner at Harry's house with him and his wife Sheila, then secretary of the university, the number three person in the Yale hierarchy. Harry smiled at me, a disarming smile that only he as a labor arbitrator had mastered, and said with a twinkle in his eye, "Don, it is a good thing for a man to be married to a woman who is just a LITTLE BIT smarter than he is."

Did he believe it? I don't know but that line reverberates to me over and over. Most men shied away from Gail because she was brilliant. That didn't bother me. I felt I was smart enough to keep up. She explained to me on our first date at a fancy French restaurant why the linear no threshold hypothesis for carcinogenesis must be wrong (in her view) because of redundant information and DNA repair. I said to myself, "I am going to marry that woman."

It took me years to realize that Gail isn't really a bad putter; she just doesn't want to beat me too badly at golf. Or what my Dad really meant when he used to say: "Your mother and I have a deal: she makes all the little decisions, and I make all the big ones. We have been married for 35 years, and we haven't had to make a big decision yet, but when we do, I intend to make it." I always knew that was funny, but it took me into my fifties before I saw the real point. He was trying to teach me that in a good relationship, there aren't any "big decisions" worth putting the relationship at risk. Another message from another angel.

Dad also taught me by example that a wife should always drive a better car than her husband. Today my wife drives an almost brand-new 2024 Mercedes and I drive a 2002 Prius. I don't think that Dad was so ignorant that he thought one could buy a woman's lover with a fancy car. No, Dad was

frugal; as a noted above, he drove a black 1951 Ford well into the 1960's until his company complained that it embarrassed them to have such an old jalopy parked in their executive parking lot, but he didn't want to impose his values of frugality on others.

Anway, on our first Christmas together, when Gail and I had tentatively agreed to marry but were living together for a year to make sure we were not rushing into something, I followed Dad's example and bought Gail a brand-new Jaguar with part of the inheritance from my parents' estate. The brand-new royal blue Jag was sitting in the driveway with a big red bow on it when she walked downstairs on Christmas morning. She started to cry and murmured aloud "You must really love me!"

Think the epiphany here is buying a woman's love with a fancy car? No, think again. It is about non-verbal communication. It is easy to say things in words; actions, particularly those that involve sacrifices, are more credible. Hence, the wise old saying that "**actions speak louder than words**."[109]

Here is a simpler example. The partner with the largest practice in my big DC law firm always got on group calls with clients five or ten minutes late, whereas I typically joined the call early. I finally figured out she was signaling clients how lucky they were that she could work them into her busy schedule, while my joining early – which I intended as a sign of respect – came across as I didn't have anything else to do. (The second epiphany here is to **observe and learn from those who are better at what you want to do**.)

A luxury car, like a diamond engagement ring, is a tangible sign of sacrifice to exemplify that one cares. If diamonds were not rare and expensive, we would not make sacrifices to give them to those we wish to convince that we really do love them.

That's a point (I am not arrogant enough to assert that it is *the only* point) of the story in the Bible about Abraham being willing to sacrifice his only son Isaac to show how much he loved God.[110] Sacrifice is a physical act to try to communicate credibly what is in our hearts. Gail had no way of knowing for sure whether I really loved her and would stick with her through the ups and

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[109] Nokwanda Biyela, *Actions Speak Louder Than Words*, Medium (Oct. 5, 2024), https://medium.com/@nokwandaphindi/actions-speak-louder-than-words-7c1cf1034d0f.

[110] Genesis 22 (New International Version), https://www.biblegateway.com/passage/?search=Genesis%2022&version=NIV.

downs inevitable in any long-term partnership. Buying her an expensive car showed her that I was committed, at least to some extent.

Evolutionary theorists such as John Maynard Smith and Amotz Zahavi have made a parallel point about why animals such as gazelles jump up and down when approached by a predator such as a lion,[111] a behavior called *stotting*.[112] Think about it: why waste time and energy jumping up and down instead of just trying to run away? The "most likely explanation" in evolutionary theory is that the gazelle is communicating to the potential predator how fit and fast it is in an attempt to persuade the predator not even to bother trying to catch it.

By the way, that's a good clue for spotting epiphanies – something that just doesn't add up as you currently understand how things work; often there is a deeper meaning if only we can find it.

[111] John Maynard Smith & David Harper, *Animal Signals* (2003), https://www.amazon.com/dp/0198526857; Amotz Zahavi & Avishag Zahavi, *The Handicap Principle: A Missing Piece of Darwin's Puzzle* (1997), https://www.amazon.com/dp/0195129148.

[112] For an acessible definition and explanation, *see Stotting*, Oxford Reference, https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100535344?p=emailA8NpPryCZrdm2&d=/10.1093/oi/authority.20110803100535344&print.

Part IV

Some Things I Learned Practicing Law

Chapter Eight

A Man a Lot like Jesus

I never knew Jesus in the flesh personally of course, but I imagine in my mind's eye what he was like based on the stories about him that I have read in the Bible or heard in church. I think of Jesus as a perfect man and the role model whom we should try to emulate. That is my current understanding of the biblical phrases: "And the Word became flesh and dwelt among us, and we beheld His glory, the glory as of the only begotten of the Father, full of grace and truth"[113] and "God was manifest in the flesh, justified in the Spirit, seen of angels, preached unto the Gentiles, believed on in the world, received up into glory."[114]

Regardless of whether my current conception is accurate theologically, I do know that sometimes an epiphany comes not as a single moment but through the exemplary life of another human being who reminds us of Jesus and inspires us by his or her example.

One person like that in my life – an "angel" or "son of god," if you will -- was Francis Xavier Dineen. Frank – or "Mr. Dineen," as we law students always called him with a certain implicit reverence – was the top lawyer at the New Haven Legal Assistance Association and taught for many years as a clinical faculty member at the Yale Law School. Through his example, Frank Dineen taught me a lot about how to be a lawyer, but more importantly, about humility and service to others. He was an excellent lawyer and could have made a great deal of money in private practice or become famous and influential in

[113] John 1:14 (New King James Version), https://www.biblegateway.com/passage/?search=John%201%3A14&version=NKJV.
[114] 1 Timothy 3:16 (King James Version), https://www.biblegateway.com/passage/?search=1%20Timothy%203%3A16&version=KJV.

politics or government. Instead like Jesus, he chose obscurity and helping individual people in times of trouble.

There are too many examples of moments when his example taught me something important about both law and life to relate in this short piece so I will confine myself to extracts from a talk I gave a few years back at a Yale Law School event in his honor. That approach is not merely because I am lazy; I tried but I just can't do any better to capture Frank Dineen's spirit in words than what I said then.

Frank Dineen was a lawyer *extraordinaire* and a very special person. He taught and he inspired, but he did so largely by example. He made me a better lawyer, a better teacher, and a better person. I often find myself thinking in a difficult situation, "What would Frank Dineen do?"

Frank was there at the moment that I became a lawyer. It is rare that one can identify an exact moment when her or she became a lawyer, but I can precisely. Frank took me over to the housing court clerk's office and asked the clerk behind the counter to show us in the official file for an eviction case and Mr. Dineen focused immediately on the return of service, the document that the sheriff fills out showing how he or she served the summons and complaint on the defendant. Mr. Dineen looked at it quickly, turned to me and said, "Alright Elliott, there are three errors in the *mesne* process – what are they?" And it was like the magic words "open sesame" in *Ali Baba:*[115] a whole new world opened up at that moment. I think I spotted two out of the three mistakes -- and after 40 plus years of teaching advanced civil procedure, I'm still trying to figure out what the third one was!

Mr. Dineen and I worked together on many cases and I learned a great deal from him. I remember one case in particular that we worked on together representing a woman named Helen Dawson, who was unable to pay her rent. We defended her against eviction by filing pleas attacking technical deficiencies in the process of serving her eviction notices. So, for example, if the sheriff had served somebody by leaving the documents at their usual place of abode and said in the return of service that the writ had been left at

[115] *Histoire d'Ali Baba et de quarante voleurs exterminés par une esclave*, in *Les Mille et Une Nuits: Contes Arabes* 236, at p. 237 (Antoine Galland trans., Renault 1846) (1717). For an English translation of the line, 1 *The Arabian Nights: Tales of 1,001 Nights* at p. 932 (Malcolm C. Lyons & Ursula Lyons trans., 2010), https://www.amazon.com/dp/B00390BE7Q.

175 Whalley Avenue, we got it dismissed because they didn't say "175 Whalley Avenue, back left apartment."

The landlord's lawyer in the Helen Dawson case was a local probate judge. Until recently, I had thought that we kept Helen Dawson in her apartment for over two years by getting notices dismissed over and over again for various technical deficiencies. But Mr. Dineen pointed out that he had already been working on the case for about 3 years before I got there. In total, he got 11 cases dismissed and kept her in her apartment for over five years, setting a new record.

One day, I came into the office and Mr. Dineen was visibly upset. "What's the problem?" I asked. "The other side has called up and offered to allow Helen Dawson to live in her apartment rent-free for six months," he answered. With all the *naiveté* of youth, I replied, "What's wrong with that? That's great. We have won six months rent-free for our client."

Mr. Dineen understood much better than I did what was going to happen. Our client accepted the settlement, lived in the apartment rent-free for six months, but in the end, she was unable to find another place and was about to get evicted and literally put out on the street with her young children. I remember looking at Mr. Dineen the night before it was due to happen and I asked what he was going to do. He gulped and said, "I guess I'll call up the other side and see if they'll give her another couple of weeks." I never was prouder of him than at that moment. It was humiliating for him to have to call the other side and beg, but he did. He did it because he cared and because it was a lawyer's sacred obligation to do all that he could do ethically to serve his client.

When Frank Dineen received the Yale Law Women's Teaching Award in the year 2000, someone used the word "saint" to refer to him. I don't know much about sainthood works, but Frank Dineen really was an exemplary man with much in common with Jesus by my lights. In the Christian tradition, it's not lost on us that the example we are to emulate was born into an obscure working-class family – a simple carpenter who washed the feet of his disciples. He was humble, strong and wise and found meaning in everyday interactions with the people whose lives he touched. Frank Dineen may not have been famous, at least not outside of New Haven, but he was one of the best teachers, the best lawyers, and the best human beings I've ever known.

The episode involving Helen Dawson's eviction, among others, inspired my Yale Law School classmate John Bolton, later ambassador to the UN and national security adviser to President Trump in his first term,[116] to write a note in the *Yale Law Journal* with a co-author in 1973[117] that was critical of the role legal assistance played in eviction cases. Re-reading that note today, I can now see that they had a point: by keeping poor people in apartments they couldn't afford, we legal aid lawyers were not really addressing the underlying problem that they were too poor to afford a decent place to live. Perhaps that is why many legal aid attorneys "burn out" after a few years and go on to something else, as I did in my life.

Nonetheless, I am very proud that my first-born child, Eve Christina Savage Elliott Bousquet, chose to spend her first six years after law school as a legal aid attorney representing veterans in domestic relations cases. I sometimes wonder whether Frank Dineen's spirit, transmitted through me, had anything to do with that. She went on from there to her present job as general counsel to a Massachusetts state agency that advocates for veterans. I am very proud of her for her career, but even more for how she somehow manages to balance her roles as mother, wife, and lawyer so skillfully.

He's dead now but I'd like to think that Frank Dineen's spirit lives on forever through the influence that he had on me and on the many others that he inspired and that we in turn will pass on some of what we learned from his example to those whose lives that we touch, and so on forever and ever.

[116] *Hon. John R. Bolton*, Fed. Soc'y, https://fedsoc.org/bio/john-bolton.

[117] John R. Bolton & Stephen T. Holzer, Note, *Legal Services and Landlord-Tenant Litigation: A Critical Analysis*, 82 Yale L.J. 1495 (1973), https://openyls.law.yale.edu/server/api/core/bitstreams/2731bd40-e1c2-477d-a7f0-952afec64ad7/content.

Chapter Nine

How to Cross-Examine a Witness

I grew up watching *Perry Mason* on television. In most episodes of that 1960's TV show a lying witness breaks down on the witness stand under cross-examination and confesses. Unfortunately, it almost never works that way in real life, as I learned in watching dozens of trials as a federal district court law clerk for federal judge Gerhard Gesell[118] after law school. No, the best strategy in my experience is to get the witness to tell an obvious lie in front of the jury even about a peripheral matter and then the jury will view skeptically anything else he or she has to say.

I first learned that watching murder trials in southern Indiana with my mom. For reasons that I still don't understand, Mother enjoyed watching trials and took me along. Some of the local lawyers in Evansville, Indiana where I grew up were past masters at conducting cross examination in front of juries.

My personal observations were not only confirmed but expanded and enhanced by one of the many things that one of my mentors taught me along the way. After graduating from Yale Law School in 1974, I was privileged to clerk for a wonderful federal District Court judge in Washington, D.C. named Gerhard A. Gesell. He had been the chief litigator for Covington & Burling, a large, prestigious Washington, D.C law firm, and his portrait now hangs in the student lounge at the Yale Law School, his *alma mater*. I clerked for him in the mid-1970's in the wake of the Watergate scandal. Judge Gesell had the case about whether to release Nixon's secret White House tapes among many other famous and important cases. On my first day on the job, then Secretary of State Henry Kissinger was testifying in the case about the break-in to the office of Daniel Ellsberg's psychiatrist to try to find embarrassing information about him. Ellsberg was the guy who had leaked the Pentagon Papers to the *New York Times* and the White House under Nixon was out to get him using former CIA agents who also did the break in at the Democrat party headquarters across the street from the Watergate.

[118] Bruce Lambert, *Judge Gerhard Gesell Dies at 82; Oversaw Big Cases*, N.Y. Times (Feb. 21, 1993), https://www.nytimes.com/1993/02/21/us/judge-gerhard-gesell-dies-at-82-oversaw-big-cases.html.

Things Judge Gesell Taught Me

Judge Gesell taught me many things but perhaps the most basic but often overlooked by most lawyers was to **read books written by or about people who know how to do what you want to learn how to do.** In retrospect, that seems perfectly obvious but neither I nor most of the lawyers and law students I have known do it. Funny that never occurs to most of us: if you were going to build a canoe, or raise a child, and didn't know how to do it, what would you do? Get a book – or today, instructions on the internet – to learn how to do it.

I read books about how to cross-examine a witness voraciously. I was smart enough even at that time to ask Judge Gesell which trial lawyers he recommended. He responded without a moment's hesitation *Carson the Advocate*,[119] a 19th century barrister. I read everything I could find about him and then Louie Nizer's book *My Life In Court*,[120] a couple of books about Clarence Darrow's famous cases and most importantly of all, a best-selling book called *The Art of Cross Examination*[121] written by Francis Wellman, a long-time trial lawyer for the New York district attorney's office who had conducted literally hundreds of trials. I learned that Wellman had written three or four other less famous books about his career that are out of print and harder to find, but I found them in antique bookstores and read all of them too. I recently gifted my collection of books about famous trial lawyers to an accomplished trial lawyer, Jesse Bousquet,[122] who is married to my daughter Eve, and is wise enough to want to learn to be an even better trial lawyer by studying the greats.

Fast forward a few years, and I am now a young associate in a medium-size law firm in DC where I had gone instead of to one of the big firms because I wanted to get more trial experience than I thought I would get at a big corporate firm. I was right about that. I was now junior member of a team of three that was trying a multi-million-dollar construction case growing out of the construction of the Walter Reed army hospital. The other side had put on an expert witness who started his testimony by describing his experience as a

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[119] Ellery Sedgwick, *Carson the Advocate*, Atlantic (Apr. 1933), https://www.theatlantic.com/magazine/archive/1933/04/carson-the-advocate/649990/.

[120] Louis Nizer, *My Life in Court* (Pyramid Books 1968) (1961), https://www.amazon.com/dp/B000V5OTV0.

[121] Francis L. Wellman, *The Art of Cross-Examination* (4th ed. 1997), https://www.amazon.com/dp/0684843048.

[122] *About Us*, Jesse Bousquet Jr., Esq., https://jbousquetlaw.com/about-us/.

project manager on big construction projects in order to establish his credentials to opine on the issues in our case.

The first lesson that I had learned from Wellman and the other great trial lawyers is ***listen to the witness***! That may seem obvious, but you'd be surprised how many lawyers don't do it. You're nervous and so you over prepare and go through your prepared notes rather than *ad lib*-ing based on what the witnesses said. But I had had a lot of experience with extemporaneous speaking back in Indiana on my high school debate team, so I listened carefully to what the other side's expert witness said and I saw my opening and took it.

I stood up and after a few preliminary throwaway questions just to get my sea legs and relax the witness, I homed in on my target. "I believe you said on direct examination that you had been a project manager on lots of big construction projects, right?" The witness looked at me with a contemptuous expression that conveyed, "you young idiot, I'm about to eat your lunch" and launched into a long-winded dissertation about all of his experience as a project manager.

On the bench, Judge Gesell rolled his eyes with an expression that said "Don, didn't I teach you anything?" You see, I had invited the witness to repeat to the jury his prepared testimony about all of his experience in actually managing projects as opposed to merely testifying about them as a hired-gun expert witness. I listen patiently as he droned on and on and then walked up to him, pointed my finger at him ominously, and said, more loudly that usual to wake up the jury, "Isn't it true that over 95% of your money comes from testimony in court." Sheepishly he admitted that was true.

"No further questions of this witness your Honor," I said with evident disdain and sat down. He was done. Stick a fork in him. I had gotten him to exaggerate his credentials to the jury in a misleading way that they could see through. The jury awarded our clients $9.2 million,[123] $400,000 more than we had asked for, and one of the largest verdicts in the District of Columbia at the time. But even more importantly to me, I could see from his glowing expression that Judge Gesell was thinking "Maybe I taught this young man something after all."

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[123] *U.S. Indus., Inc. v. Blake Constr. Co.*, 671 F.2d 539 (D.C. Cir. 1982), https://case-law.vlex.com/vid/u-s-industries-inc-884509247.

Second epiphany lesson: **don't underestimate the young lawyer that is about to cross-examine you – or in biblical terms, do not be guilty of the sin of pride**.

What "Angels" Can Teach Us

"Angels" teach us what they know, and Judge Gesell and the spirits of the great lawyers of the past embodied in the books that he recommended knew how to cross-examine a witness, so that's what they were able to teach me. I do acknowledge that how to cross-examine a witness is mundane and not exactly an ideal example of "how God speaks to us today," at least on the surface. But I now also see that my legal experiences cross-examining misleading witnesses who exaggerated their qualifications may underlie my skepticism about a literal interpretation some of the miracles reported in the Bible. Yeah, I know that they are sometimes called "attesting" or "affirming" miracles" or "signs"[124] that are supposed to prove Jesus's divinity, but for me and many other modern skeptics, they have the just opposite effect. Thus, I try to set aside the literal interpretation and find "the moral of the story."

A third lesson from this epiphany is **choose carefully with whom you associate, because you will become more like them**. I often share that with the law students who ask my advice when they are trying to decide where to go to work: "ask yourself if you'd like to be similar to these people in twenty years, because you will become them." Again, not literally. You'll become more like them in spirit.

No surprise, this wisdom is also in the Bible: "He who walks with wise men becomes wise, but the companion of fools will suffer harm"[125] and "Do not be misled: 'Bad company corrupts good character.'"[126]

Gesell Lesson Number Two

Judge Gesell was definitely "wise," and working with him for a year as his law clerk assistant taught me many important lessons. I remember in particular hearing from someone that before Gesell became a judge and was

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[124] *See Are Miracles a Specific Revelation from God?*, Orthodox Presbyterian Church (May 2, 2017), https://opc.org/qa.html?question_id=564; *The Role of Miracles in Affirming Faith*, Bible Hub, https://biblehub.com/topical/t/the_role_of_miracles_in_affirming_faith.htm

[125] Proverbs 13:20 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Proverbs%2013%3A20&version=RSV.

[126] 1 Corinthians 15:33 (New International Version), https://www.biblegateway.com/passage/?search=1%20Corinthians%2015%3A33&version=NIV.

still a partner in a big law firm, he had been offered but turned down the job as General Counsel of DuPont. As a recent law school graduate, becoming General Counsel of DuPont seemed like a dream job to me, so I asked the judge one fine day why he had turned it down. He looked at me as if I were a dunce and harumphed "What? Give up my independence?"

As a twenty-something recent law school graduate, I had no clue as to what he meant, so like Mary in the Bible,[127] I stored that conversation up in my heart and pondered it later. Thirty years later as a partner in a big law firm myself, I understood perfectly what he meant. A partner in a law firm typically has multiple clients and can lose any one of them whereas an in-house lawyer has only one and that dependency can sometimes cloud one's judgement. True, sometimes partners in law firm also become too dependent on a single big client and get into trouble when they lose the independence of judgment that comes from having multiple clients. For me, the lesson is **sweet are the uses of diversity**. I have generally had two jobs and at least three of four different financial advisers managing our money; if any one of them screws up, I have still got the others to fall back on. Plus recently the epiphany that Judge Gesell shared with me 50 years ago recently helped me decide to turn down a prestigious and lucrative offer from China that would have required me to "give up my independence" and diverted me from writing books like this one in the limited time I have left. See Chapter Two.

There are several other lessons from this epiphany. Storing things up in our hearts until we can understand them is one, and learning from past masters is another, but perhaps the most important one is less obvious than the other two: Judge Gesell had made himself approachable to his young assistants in a way that had made me feel comfortable asking him a personal question about his career. This reminds me of Jesus's saying "let the little children come to me."[128] To be a good mentor, one has to be approachable by projecting a willingness to share one's perspectives with others. Judge Gesell did that by starting every day with a short conversation with his law clerks about life in general; that told us that he cared about us as people, not just as employees who did legal research for him. The ministers at my church do

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[127] Luke 2:19 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Luke%202%3A19&version=RSV.
[128] Matthew 19:14 (New International Version), https://www.biblegateway.com/passage/?search=Matthew%2019%3A14&version=NIV.

something similar by walking around the congregation before each service and making small talk with their parishioners.

Gerhard Gesell was a wise and loving man. He walked with God as the saying goes.[129] Did I mention that he played a key role in desegregating the U.S. armed forces?[130] Or that some of the other district court judges thought that Judge Gesell must somehow be manipulating the wheel that was used to randomly assign new cases because he got all the interesting ones? When I told him that, Judge Gesell just laughed, shrugged and said to me, "Don, there aren't any inherently interesting or uninteresting cases; it is just that some lawyers see interesting issues in a case that others overlook." That lesson served me well in law practice. Sometimes the angel comes right out and tells you the moral.

[129] *See Genesis 48: Walking with God . . .*, What He Is Teaching Me (May 18, 2010), https://whatheisteachingme.wordpress.com/2010/05/18/genesis-48-walking-with-god/.

[130] Stacey Flores Chandler, *Fighting Racism in JFK's Military: The Gesell and Hewes Papers, Digitized*, The JFK Library Archives: An Inside Look (Feb. 5, 2024, updated Feb. 6, 2024), https://jfk.blogs.archives.gov/2024/02/05/fighting-racism-in-jfks-military-the-gesell-and-hewes-papers-digitized/.

Part VI

Epiphanies Serving in Government

Chapter Ten

How to Seize Victory from the Jaws of Defeat

After eight years of teaching environmental law, civil procedure and other subjects at Yale Law School, I got an opportunity to become the General Counsel of the Environmental Protection Agency in Washington, a presidential appointment confirmed by the Senate and the head of an office of 250 lawyers. I had had been on the job as General Counsel of the EPA for only a month or two when I argued one of the most important legal cases of my life, not to a court but instead to the Counsel to the President. My worthy opponent was Bill Barr,[131] then Assistant Attorney General for the Office of Legal Counsel (OLC) at the Department of Justice, the guy who advises the President what he can and cannot do, and later Attorney General – twice!

Let's go back a week or so. The Red Phone on my desk with the direct line to the EPA Administrator's office rang for the first and last time. No surprise: the voice at the other end was my boss EPA Administrator William Kane Reilly,[132] a patrician and the only career environmentalist to ever hold the top job at EPA. "Don, can you come up right now please. Seems we've got a little problem with Congressman Dingell."

John Dingell,[133] the long-serving Congressman from Michigan, cast a long shadow over anything and everything affecting the automobile industry. Seems Congressman Dingell had instructed Administrator Reilly on what he wanted him to do on some upcoming policy issue affecting the auto industry. Reilly had thanked him for his opinion, although apparently not with sufficient enthusiasm, as Congressman Dingell responded: "Listen, I have brought down one administrator of EPA and I can bring down another," or so the conversation was reported to me by Administrator Reilly. Congressman Dingell was referring to an unfortunate dispute in the previous administration in which Ted Olson, then Barr's predecessor at OLC, had insisted that Anne

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[131] *Attorney General: William P. Barr*, U.S. Department of Justice (updated June 10, 2026), https://www.justice.gov/ag/bio/barr-william-pelham.

[132] *Biography*, William K. Reilly, https://www.williamkreilly.com/bio-1.

[133] *Dingell, John David, Jr.*, History, Art & Archives, U.S. House of Representatives, https://history.house.gov/People/Listing/D/DINGELL,-John-David,-Jr--(D000355)/.

Burford Gorsuch, then head of EPA, had to withhold certain documents that Congressman Dingell has requested in order to protect the Executive and Deliberative evidentiary privileges of the Executive branch. I had read all about it in her book, *Are You Tough Enough*.[134]

It worked once, so the Congressman was trying the same ploy again. See Chapter Five above about not going to the well once too often. Anyway, Bill Barr and I were meeting in the West Wing of the White House to argue before the Counsel to the President about whether we at EPA should or shouldn't be allowed to release the documents to Congress – which incidentally I never actually saw or knew anything about their contents. It was my job as I saw it to figure out how to save my Administrator from his predecessor's fate.

When I got to the office of C. Boyden Gray,[135] the White House counsel, in the West Wing of the White House, Barr was already waiting for me in the outer office. Barr immediately started working me to gain an advantage (*aka* "trash talking"). "What have you been doing these last four years, Don"? "Teaching first year procedure to baby lawyers at Yale" would have been the accurate answer, although I think I managed something more noncommittal. "How about you Bill?" "Yes, General Counsel to the Central Intelligence Agency." "I see. Lots of important and interesting stuff there I bet." I knew about trash talking from basketball back in Indiana, so I didn't let it knock me off my game. Everybody's gotta be from somewhere.

We walked in and sat down and the phone range and Boyden answered. He listened to for a moment and then said, "No, Mr. President, I have not yet seen the front page of today's *Boston Globe*. I'll call you right back when I do." That kind of meeting. Boyden then turned to us and signaled we should proceed.

Barr made all of the predictable arguments about protecting executive privilege from the prying eyes of the Congress – as I knew he would – and Boyden ruled against me on every single issue – as I also knew he would. Then, as we were just about to stand up and leave the room, I said: "Just one more thing: why don't we advise Congressman Dingell that we will deliver all

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[134] Anne M. Burford & John Greenya, *Are You Tough Enough? An Insider's View of Washington Power Politics* (1986), https://www.amazon.com/Are-Tough-Enough-Anne-Burford/dp/007008940X.

[135] Alex Traub, *C. Boyden Gray, Lawyer for the Republican Establishment, Dies at 80*, N.Y. Times (May 21, 2023), https://www.nytimes.com/2023/05/21/obituaries/c-boyden-gray-dead.html.

the documents in question to our lawyer, Mr. Barr, and he will work out all the details with the committee."

A sly smile spread across Boyden's face, and he looked me in the eye and said slowly, "Yes, Don. I think we can do that." He knew exactly what I was trying to do but he owed me one after ruling against me on everything else. I went back to my office and wrote the letter for Administrator Reilly to send to the Congressman saying that we had delivered the documents in question to our lawyer, Mr. Barr, and from now on they could work things out with him.

The negotiation with the Congress became the bane of Barr's first year in his new job and eventually he turned over every single one of the documents – much to his embarrassment after convincing the White House that the foundations of the republic would crumble if we at EPA had released them – and he never spoke to me again. Oh well. His loss. More importantly, Congressman Dingell wasn't able to bring down another EPA Administrator as he had vowed.

The epiphany here is to never give up, even after you seem to have lost. Defeat is when you stop trying to win because you have accepted mentally that you have lost. I saw that even more clearly years later watching my son Ian play soccer and rugby. His team could be behind by several "touches" (rugby's equivalent of touchdowns in American football). All of his teammates were down in the dumps accepting their loss, but Ian was still playing his heart out. He used to say, "We didn't lose. We just ran out of time for our comeback."

The life lessons Ian learned playing sports growing up later served him well in weightier matters. After a few years working for a hedge fund on Wall Street, Ian decided to go back to school at a post-baccalaureate pre-med program at Columbia. However, he did not do as well on the MCAT, the entrance exam for medical schools, as he had hoped, and no U.S. medical school would take him. Some advised him to accept his defeat, wait a year and take the exam again. Instead, he didn't give up but eventually got accepted by the Royal College of Physicians and Surgeons in Dublin, Ireland, a very fine and prestigious medical school that is sometimes called "The Harvard Medical School of Europe." Truth be told they wanted him in part for their rugby team as the medical schools in Europe play rugby against one another almost like football among colleges in the U.S. But hey, whatever works. See Chapter Four, Everybody's Got to Be From Somewhere.

Ian did well in medical school and eventually landed prestigious internships and fellowships at Harvard's Mass General, Washington University in St. Louis, NYU and Tulane, four of the U.S.'s top teaching hospitals. He is now a board-certified orthopedic surgeon and holds a faculty position teaching residents as well as practicing at Oshner Health in New Orleans.[136] He has written 40 or 50 articles in medical journals, edits a medical journal, and gets invited to speak at conferences all over the world. But none of that would have occurred if he had accepted defeat when he did not ace the MCAT.

Plus everybody's got to be from somewhere, and our challenge is to figure out how best to use your particular gifts. That's true not only for Ian's rugby network but also how he has put his experience working for hedge funds to use in his medical career. His special contribution to his field is that he uses the financial skills he learned working for hedge funds to evaluate and publish about the cost-effectiveness of various treatment options. He is only 40 and was recently named an Emerging Leader by the American Orthopedic Association,[137] wrote the proud papa.

I hope that you are beginning to see some patterns. That's what makes these events epiphanies worth including as opposed to random, unconnected events that "just happen" without rhyme or reason. Ian is using skills that few of his peers possess and that, among other things, makes him special and able to see things others miss, just like I did when I read Corbin and Wigmore in law school or was the only student wwho knew what time it is "when the cock crows" in college. See Chapter Four, Everybody's Got to be From Somewhere.

Another of My "Angels," C. Boyden Gray

The real hero of my story about my argument against Bill Barr was Boyden Gray. He was a great man who is under-appreciated, and not only because he had given me the only thing in the meeting with Barr that really mattered as a kind of consolation prize after ruling against me on everything else. Boyden was responsible behind the scenes for many of the accomplishments of the first Bush Administration, including the Clean Air Act Amendments of 1990, one of the most comprehensive and successful pieces

[136] *Ian D. Elliott, MD*, *supra* note 30.
[137] *Ian D. Elliott, MD*, *supra* note 30.

of environmental legislation in our history.[138] Boyden's career is a perfect illustration of Ronald Reagan's observation that "**There is no limit to the amount of good you can do if you don't care who gets the credit**." (Epiphany alert)

For a long time, I thought how to win by snatching victory from the jaws of defeat by losing creativity was the only epiphany, the life lesson, in this incident, but it wasn't the only one. Another was that I had read Anne Burford's book and understood that Barr's predecessor at OLC, Ted Olson, had been brave and uncompromising in part because it was her career and reputation that were on the line, not his. That misalignment of incentives was the dynamic that went to the heart of the matter and was what I needed to reverse, so that was what I focused on. A great Connecticut divorce lawyer, Elaine Amendola,[139] once taught me that in any negotiation there are big issues and little issues, and it is important to try to win the big ones. That's a lesson that I applied in the meeting with Boyden.

When I think about the episode with Boyden and Bill Barr, I also remember the scene in the movie *Patton*. After Patton's army beats Rommel, the top German general in North Africa, Patton gloats "I read your book, you S.O.B." I understood the dynamic in the meeting with Barr and Boyden because I had read Anne Burford's book about what had happened to her in the dispute with Dingell in the previous administration. I successfully changed the incentives for Barr by putting him rather than the EPA Administrator in Congressman Dingell's crosshairs.

My Chance to Get Even

There is one more chapter to the story: I got my chance to get even with Bill Barr, but I didn't take it. When he was nominated to be Attorney General in the first Trump Administration years later, some of the national environmental groups tried to block his nomination by pointing out he had over-ruled one of my decisions at EPA that they liked. I assured the press that he had had nothing to do with it, although I am not entirely sure that was correct. See Chapter Three, about the one time my Dad lied to me.

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[138] *See* Elliott, *A Critical Assessment*, *supra* note 104.

[139] *Elaine Amendola Obituary*, Conn. Post (Nov. 26, 2022), https://www.legacy.com/us/obituaries/legacyremembers/elaine-amendola-obituary?id=38229025.

I have always felt good about not retaliating against Bill when I had the chance. Perhaps that is what Jesus meant in the Sermon on the Mount when he said "if anyone slaps you on the right cheek, turn to them the other cheek also."[140] You win some and you lose some, but it is always better to be kind to the people on the other side of the table.

Some epiphanies – perhaps even most of them -- have more than one lesson to teach us if only we can see them.

[140] Matthew 5:39 (New International Version), https://www.biblegateway.com/passage/?search=Matthew%205%3A39&version=NIV.

Chapter Eleven

What a Former Student Taught Me at EPA

I had been teaching environmental law at Yale Law School for only a year or two when a law student in his final year came up to me in the hall to ask my advice. He was a committed environmentalist and had been offered his dream job at an attorney at the regional office of the Environmental Protection Agency (EPA) in Boston, but he was troubled about taking it because Ronald Regan, a conservative, was President. The student, whom I later learned was named E. Michael Thomas,[141] doubted that he could serve in a Republican administration. He had heard that I had practiced environmental law in Washington, D.C. before coming to teach and he wanted my advice.

I advised him to take the job, saying that based on my experience, I didn't think the Reagan Administration's policies would have much effect on his work as a regional enforcement attorney in Boston. And then – for reasons that I still cannot fathom, I added gratuitously -- "plus if you learn the ropes in Boston, maybe someday someone who is more pro-environmental will give you a chance to work in a more pro-environmental administration in Washington." That was a prophecy that came true and to this day, I have no idea why I said it or exactly where it came from.

A few years later, I had the opportunity to serve in Washington as Assistant Administrator and General Counsel of the EPA. I served under a remarkable administrator of EPA, William K. Reilly, the only career environmentalist ever to hold the top job at EPA. Reilly and the White House assembled a remarkable and experienced team including Hank Habicht[142] as Deputy Administrator, William Rosenberg[143] at Air, LaJuana Wilcher[144] at

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[141] *E. Michael Thomas*, LinkedIn, https://www.linkedin.com/in/e-michael-thomas-10845222/.
[142] *Hank Habicht*, Water Finance Exchange, https://waterfx.org/hank-habicht/.
[143] *See* Michael Weisskopf, *Clean Air Power: EPA's Man with a Mission*, Wash. Post, Dec. 7, 1990, at A21, https://www.washingtonpost.com/archive/politics/1990/12/07/clean-air-power-epas-man-with-a-mission/4c49821a-9d84-4b33-b110-e19506bea304/.
[144] *LaJuana S. Wilcher*, ELPO Law, https://www.elpolaw.com/attorneys/lajuana-s-wilcher/.

Water, Don Clay[145] at Waste, Jim Strock[146] at enforcement and Linda Fisher[147] at Pesticides and Toxics.

I figured I should make my prophecy come true, so I called up Mike Thomas and asked him to come to Washington to be my special assistant. He did and he helped me a lot. I wanted him because I thought he knew more than I did about how the EPA worked from the inside, but more importantly, I knew that he would always speak the truth to me and tell me what he really thought. He did.

After we had been at the EPA for about a year, Michael came into my office at the end of one fine working day, closed the door behind him and said more or less the following: "Don, you may think you are smarter than the 250 people out there who work for you, but you are NOT 250 times smarter. You will be a lot more successful if you can *lead* them by getting them to understand what you are trying to accomplish rather than just trying to order them around."

That conversation changed my professional life, not only at EPA but in my subsequent career in setting up environmental departments and managing people at four major law firms. I learned from Michael that **to get people to follow your lead with enthusiasm and creativity, you have to persuade them to understand and believe in what you are doing**. Funny that a former student needed to teach that to his nominal teacher, but that's what happened. That's an important lesson too: **sometimes our proteges can become our mentors if we listen to them**.

My career deputy at EPA, Gerald H. Yamada,[148] a remarkable man, who had seen many EPA General Counsels come and go, told me that my second year at EPA as GC after the conversation with Mike Thomas was much more successful than the first and tried to get me to stay on for a third year. A decade later when he was ready to leave government, Gerald approached me and said he wanted to practice law with me, so I must have been doing

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[145] *EPA Acting Administrator Wheeler Statement on Don Clay*, U.S. Environmental Protection Agency (Nov. 13, 2018), https://www.epa.gov/archive/epa/newsreleases/epa-acting-administrator-wheeler-statement-don-clay.html.

[146] *James Strock*, Sonoma Valley Authors Festival, https://svauthorsfest.org/authors/james-strock/.

[147] *Linda Fisher*, NatureBridge, https://naturebridge.org/about-us/leadership/linda-fisher.

[148] *See Foreign Minister's Commendations for FY2025—Mr. Gerald H. Yamada*, Embassy of Japan in the United States of America (Aug. 28, 2025), https://www.us.emb-japan.go.jp/itpr_en/foreign-minister-commendations-2025-yamada.html.

something better after the conversation with Michael. Gerald and I practiced law together for over a decade and are still friends.

Near the end of my second year at EPA, my friend Dick Stewart[149] who had been running the Environment and Natural Resources Division at the Department of Justice had decided to go back to academia. Dick recommended me to the then attorney general Richard L. Thornburgh[150] as his successor. I had met Thornburgh by chance (?) on a plane back to DC from New Haven after he had given a speech, and we hit it off. Who knows what my career would have been if I had taken that job. As it was, the White House offered me a federal district court judgeship when I left, and they told me that I had been the main competitor for an appointment to the even more prestigious United States Court of Appeals for the District of Columbia Circuit which went instead to a young guy – also from Indiana like me – named John Roberts who went on to the become Chief Justice of the United States.

But that was not to be. My then wife Mary Ellen told me straight out "Donald, you can take the DOJ job if you want but the children and I are going back to New Haven." She had just completed her first year of medical school at George Washington University in DC, and Yale had agreed to take her as a transfer student, in part to get me back. That was how Mary Ellen negotiated. It didn't take me long to decide that I didn't want to be separated from my wife and two young children for any job, so I cancelled the private lunch that had been set up for me with the Attorney General about moving to DOJ and changed the oil in my car instead.

I had become good friends with Bill Rosenberg, a remarkable man who headed the air program at EPA and we were working together to implement the most expensive and most important environmental legislation in our history, the Clean Air Act Amendments of 1990. Bill took me aside one day and tried to persuade me to stay at EPA. Administrator Reilly even had me and by then-wife Mary Ellen out to his home for a private dinner where he told Mary Ellen straight out that he needed me to stay. She was not persuaded; she wanted a Yale degree and explained to me bluntly that I already had two Yale degrees and she wanted one too.

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[149] *In Memoriam: Richard Stewart*, NYU School of Law (Nov. 6, 2023), https://www.law.nyu.edu/news/in-memoriam-richard-stewart.

[150] *Attorney General: Richard L. Thornburgh*, U.S. Department of Justice, https://www.justice.gov/ag/bio/thornburgh-richard-lewis.

I told Rosenberg that I felt I had to go back to New Haven to try to save my marriage. He asked me how I would feel about turning down the DOJ opportunity if she divorced me anyway. I thought about that for only a little while and decided my family was more important to me than any job. So I went back to New Haven and started teaching again. But more importantly, I took care of my children. After a year or two, my wife was a resident in training at Yale Medical School who had to stay overnight in the hospital every other night, so I met our two children Eve and Ian who were young pre-teens every day at 3 p.m., took them to their after-school activities and cooked them dinner and put them to bed. I remember one of them asked me once why Mommy wasn't around much anymore, and I explained that "Mommy has a dream to become a doctor, and we should all help her achieve her dream."

In many ways, those were among the happiest days of my life, and to this day I am much closer to both of my children than most men in our society who are too focused on their work in my opinion. One time when I was in Japan to give a lecture, I saw a cartoon of a Japanese "salary man" at his son's high school graduation. As the young graduates walked across the stage to get their diplomas, the man in the cartoon turned to his wife and whispered, "which one is ours?" (epiphany alert!) I was determined not to let that happen to me over a career, and it didn't. Today my children and I are close, and we speak on FaceTime several times a week and visit one another periodically despite the physical distances between our residences. That is one of the greatest sources of joy in my life, and I never regret my decision to put family first. My son Ian, a distinguished orthopedic surgeon, follows in my footsteps by getting home early to take care of his young daughter.

By the way, I got a second opportunity to be appointed to the federal bench later but I turned it down too for reasons I'll explain. During the Obama Administration, there were two openings on the D.C. Circuit Court of Appeals, the federal court just below the Supreme Court that rules on most environmental and administrative law cases, but the Republicans had enough votes in the Senate to be able to filibuster judicial appointments. The idea of a compromise was floated to appoint one Republican and one Democrat, and I ended up being the nominal Republican. However, the Democrats figured out that if Obama nominated one Republican and one Democrat, the Senate Republicans might just confirm the Republican and filibuster the Democrat, so they abolished the filibuster for judicial appointments in the lower courts

instead. The then Senator from Connecticut, Chris Dodd, called me up personally and offered me a seat on the Second Circuit Court of Appeals in New York as a consolidation prize.

I was sorely tempted, because as a law student, my dream job had been to serve on the Second Circuit, as several of my teachers and mentors including Guido Calabresi and Ralph Winter[151] had done. But by then, like my mentor Judge Gesell, I valued my independence too much to accept. As judge, one has to think about the cases and legal issues that come before you. In the Second Circuit, many of their cases involve commercial and financial issues rather than the environmental and administrative law issues that were of the most interest to me, whereas as a professor I could think and write about whatever I chose. I valued my freedom to spend my time thinking and writing about whatever I wanted more than the power and prestige that comes from being a judge. Plus, to be absolutely honest, I thought I was too much of an independent thinker to be a good judge. As a judge, one is sworn to follow the law, and as an intermediate appellate court judge, that means the law as laid down by the Supreme Court. Said differently, I didn't think I had what is politely called "a judicial temperament," and the person who knows me best, my wife Gail, agrees.

I often wonder whether I made the right decision, but when do I, I hear an "angel" in the form of my Mom's spirit whispering in my ear[152] one of her favorite lines from Shakespeare (a good source of epiphanies), "Donnie, to thine own self be true,[153]" and I think that I was.

We define ourselves not only by what we do, but at least as much by what we choose not to do.

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[151] Nancy Liao, *Ralph K. Winter '60 (1935–2020)*, Yale Law School Center for the Study of Corporate Law, https://www.ccl.yale.edu/inmemoriam/winter-ralph.

[152] Figuratively, of course. Her body does not rise physically from her coffin and speak into my ear literally. See Chapter One.

[153] William Shakespeare, *Hamlet* act 1, sc. 3, l. 84 (Barbara A. Mowat & Paul Werstine eds., 2012), https://www.amazon.com/dp/1451669410.

Part VI

Sin and Redemption

Chapter Twelve

Sin

Finally, a chapter on something that I know a lot about: sin.

The standard definition is something along the lines of "violating God's law" or "rebelling against God," but those are both metaphors that try to explicate the concept by analogy to familiar concepts from everyday life such as crime or insurrection. I heard them growing up but they never really made much sense to me, so here's an alternative definition based on my lived experience: ***sin is choosing to do or say something that is likely to make you and those you care most about suffer in the long run***.

Sin usually involves putting a temporary passion or appetite above the long term good of ourselves and those we love. Sin just isn't worth the pain it causes in the long run. That is why we are warned by those wiser than ourselves not to give in to temptation, because doing so predictably leads to rack and ruin. For example, see Chapter Six about how my infidelities resulted in the break-up of my previous marriage to Mary Ellen, which nearly drove me to suicide and caused great pain to both her and our children. She once told me, "You ruined my life Donald," and a quarter century later, I still feel pain as those words echo in my brain because I deeply wounded someone I loved.

All the sins that I can think of have that same essential characteristic: they are counter-productive in the sense that they tend to result in chaos and unhappiness; they may give us a brief thrill, but they are a false path because in long-run they can cause far greater pain. Lying leads to other people being unwilling to trust us; killing invites retaliation and a blood feud like the Hatfields and McCoys. Take for example the centuries-long cycle of "retaliatory" killings between Jews and Palestinians with each side saying they are "retaliating" and trying to "teach the other side a lesson."

Like other sins, the obsessive pursuit of money, or fame or gluttony often leads to unhappiness; someone is always going to be richer or thinner or more successful. I have known several billionaires in my lifetime, and each was very unhappy. The precipitating cause of their unhappiness was different in each case, but they shared the common underlying cause that all most people saw of them was their wealth – like being born too beautiful or too tall, that's all most people see. That jibes with the emerging field of happiness

studies that about the only sure way to make someone *un*happy is for them to win the lottery.[154] Sudden wealth that one did not earn and is not prepared to manage is a curse. Things do not create happiness. Living in accordance with Jesus's example of kindness and love does.

False Gods

That's what the stuff in the Bible about not pursuing "false gods"[155] means to me. Some sins consistent in doing something, even a good thing, to excess so that the something in question comes to dominate your life. There is nothing wrong with doing honorable work to earn "enough" to provide reasonably for ourselves and those we love. As I related in an earlier chapter, my dad taught me that money is the least important thing in the world as long as one has "enough," and that what is "enough" depends on how you choose to live as well as how much income you have. See Chapter Three. The "sin" comes in becoming obsessed with material wealth so that it overwhelms other values.

I once represented a billionaire whom I will not name for obvious reasons. He was one of the unhappiest people that I have ever known. He never seemed to enjoy his riches, including a wonderful wife, because he was obsessed with trying to acquire even more earthly wealth because (as he once told me), there were four hundred people in the world with even more earthly wealth than he had.

Too much of a good thing can be bad. Gluttony is a perfect example; we all need food to sustain our bodies but if we carry the love of good-tasting food too far, it becomes the sin of gluttony and harms our health. That's what the expressions "a virtue carried to extremes becomes a vice" or "moderation in all things" mean to me. This idea is in Aristotle, although I don't know that he ever said it exactly that way.

Google's Artificial Intelligence sums up the over-arching point about the nature of sin this way:

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[154] Philip Brickman, Dan Coates & Ronnie Janoff-Bulman, *Lottery Winners and Accident Victims: Is Happiness Relative?*, 36 *J. Personality & Soc. Psych.* 917 (1978), https://pubmed.ncbi.nlm.nih.gov/690806/.

[155] *See, e.g.,* Mathew 5:4 (Revised Standard Edition) ("Blessed is the man who makes the LORD his trust, who does not turn to the proud, to *those who go astray after false gods*!") (emphasis added), https://www.biblegateway.com/passage/?search=Psalm%2040%3A3%2D5&version=RSV.

> "Pride goeth before the fall" is a proverb, derived from the Bible's Book of Proverbs 16:18, that means being excessively proud or overconfident leads to eventual ruin or failure. People who think they are superior to others or so important they don't need anyone else often become arrogant, which clouds their judgment and sets them up for a setback or downfall.

See Chapter Nine about how to cross-examine an exaggerating witness for an example.

The Bible makes the point over and over that sin is not a good deal for the sinner because it is the road to ruin and suffering, but the Bible often makes this point in antiquated language that I, at least, had a hard time understanding. For example, Lamentations 1:8 says "Jerusalem hath grievously sinned; therefore she is removed: all that honoured her despise her, because they have seen her nakedness."[156]

By my lights, this passage is not about body-shaming or a warning against nudism; rather than "her nakedness," a better rendering might be "her true nature." When our sinfulness is exposed to other people, they recoil from us and we lose their love and companionship. "Fool me once, shame on you; fool me twice, shame on me," as the old saying goes. In short, "sin" is a bad bargain that we make because we cannot foresee the long-term consequences of our actions. That is probably what the ancient great Greek philosopher Plato meant by his famous observation that "ignorance [is] the root and stem of all evil."[157]

Or how about another biblical passage "But the fearful, and unbelieving, and the abominable, and murderers, and whoremongers, and sorcerers, and idolaters, and all liars, shall have their part in the lake which burneth with fire and brimstone: which is the second death."[158]

For my part, that passage isn't really about a physical lake or somewhere that caught on fire; the image is a metaphor for what it feels like when you have sinned and are paying the consequences. Take it from me: the

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[156] Lamentations 1:8 (King James Version), https://www.biblegateway.com/passage/?search=Lamentations%201%3A8%20&version=KJV.
[157] https://in.pinterest.com/pin/ignorance-the-root-and-stem-of-all-evil--213428469813898802/
[158] Revelation 21:8 (King James Version), https://www.biblegateway.com/passage/?search=Revelation%2021%3A8&version=KJV.

consequences of sin feel a lot like being trapped in a big lake from which you cannot escape and being tortured by the fire of regret at the consequences of your actions.

The concept of sin is not unique to the Christian religion. The Ten Commandments are part of the tradition that we inherited from our Jewish heritage, as we probably all know. But many other religions as well as most moral and philosophical traditions also share a concept of sin, which are all pretty much the same thing in different words. In Hinduism, for example, sin (which they call *papa*) means taking an action that violates *Dharma*, the natural order of the universe, and therefore leads to bad *karma*, suffering in the long run.[159] That's easier for me to get my mind around than the stuff about Jerusalem suffering in her nakedness or lakes of fire, as Joseph Campbell foresaw. See Chapter One above.

Why Don't All Sinners Suffer?

The skeptics among you might be thinking: "Okay, if sin leads to suffering and perdition,[160] why aren't all sinners punished?" The truthful answer is "I don't know." All I can do is report that the sins that I have committed in my life have always led to unhappiness for me and others.

Here's the best that I can do as of now to explain whether pain and suffering also happen to every other sinner. If "everlasting life" is at least in part about how we are remembered by others, as I have suggested elsewhere (see Chapter Three), then great sinners such as Hitler and Putin suffer "eternal damnation" after death in how they are remembered. I know that would be slim comfort to those who are now suffering death and destruction from Putin's war to conquer Ukraine. That senseless war is still going on as I write this and has already killed over a million people and wrought destruction throughout that beautiful country.

Why don't bad things happen to bad people is the other side of Job's question to God in the book of Job about why bad things happen to good people. I think, for example, of the pain and suffering that my sister endured from multiple sclerosis, or that one of my favorite law school teachers, Arthur

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[159] Sri Rama Ramanuja Achari, *Hindu Concepts of Sin* (June 27, 2017), https://www.srimatham.com/uploads/5/5/4/9/5549439/hindu_concept_of_sin.pdf.

[160] *Perdition—Definition, Meaning & Synonyms*, Vocabulary.com, https://www.vocabulary.com/dictionary/perdition.

Leff,[161] died in his mid-forties from what he rightly called a "very unfair cancer." As I understand "God's" "answer" to Job boils down to basically "You wouldn't understand."[162] That's true, at least for me. I don't understand either why some good people of faith like my sister Jane suffer[163] and yet some great sinners do not, at least as far as we can discern. Maybe that's why the concept of hell was invented, to reassure people that sinners would indeed be punished after death?

And yes, I do know the standard answer in conventional theology is that God gave us humans free will and we humans are the source of all the evil in the world.[164] I find slim comfort in that argument, however, in part because it not apparent to me how many maladies such as my sister Jane's multiple sclerosis of the premature death of Gail's father are caused by human exercises of free will. I am not saying those wiser "sons of God" such as C.S. Lewis who make that argument[165] are wrong; I am just saying I don't understand the pain paradox – as least not yet!

One possible answer I am considering is the ancient Greek concept of *hubris*, the idea that the "gods" (plural to the ancient Greeks) punish those who "get too big for their britches" by assuming that they can control everything in life. Maybe we suffer because "God," or the structure of the universe, or whatever, is teaching us humans a lesson that we are not really in control of everything after all – which in some ways is the exact opposite of C. S. Lewis's thesis that human beings are responsible for everything bad that happens.

I am not yet ready to commit to the *hubris* idea, even at the "I currently think" level, but it does resonate for me with some of my experiences. Certainly my sister's trials and tribulations did not weaken her faith; if

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[161] Nancy Liao, *Arthur A. Leff, Southmayd Professor of Law, 1969–81*, Yale Law School Center for the Study of Corporate Law (Nov. 26, 2025), https://www.ccl.yale.edu/the-history-of-business-law-at-yale-archives/leff-arthur-a-modern-era.

[162] Tim Mackie, *God's Response to Job's Questions About Suffering*, BibleProject (May 27, 2017), https://bibleproject.com/articles/gods-gives-job-tour-wise-world/.

[163] See Chapter Two.

[164] In theology, the problem of why a just and supposedly all-powerful "God" allows good people to suffer great pain is sometimes called "theodicy," a combination of the Greek words for "deity" and "justice." *See* C.S. Lewis, The Problem of Pain (rev. ed. 2001), https://www.amazon.com/dp/0060652969. For an accessible explanation of his argument, Jana Harmon, *C.S. Lewis on the Problem of Pain*, C. S. Lewis Institute (Sept. 1, 2012), https://www.cslewisinstitute.org/resources/c-s-lewis-on-the-problem-of-pain/.

[165] See previous footnote.

anything, they strengthened her faith. Perhaps that's what Jesus meant in the Sermon on the Mount when he reportedly said, "Blessed are those whose suffer for doing what is right."[166] I have never understood how suffering can be a blessing, although some translations render that line as "Blessed are those who are persecuted *because of* righteousness, for theirs is the kingdom of heaven" (emphasis added).[167] That makes a lot more sense to me, but maybe suffering also teaches us valuable lessons. Maybe I will explore the problem of why good people suffer and bad people are not punished further in future work, but for now let's just leave it at "I don't understand why good people suffer and bad people do not, but I currently think that just maybe it is about *hubris*, or 'God' *aka* the order of the universe, reminding us of our proper place and that we cannot bend everything to our will."

The Path Back from Sin

What is unique about Christianity is that it is the only religious tradition, at least as far as I know, that offers the path to forgiveness of our sins and restoration of right relationships with others and the order of the universe, or "God" if you prefer. My ex-wife Mary Ellen now comes to share Thanksgiving and Christmas with us all together as a family, a blessing that I welcome but do not deserve.

That was one of the things that the pastors of my Presbyterian church explained to us before they married Gail and me twenty-five years ago: Christianity – or more precisely, following Jesus's teachings -- offers us the chance to be "re-born,"[168] to begin anew, but we must acknowledge our sins

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[166] Mathew 5:10 (New International Readers Version), https://www.bible.com/bible/110/MAT.5.10-12.NIRV.
[167] Mathew 5:10 (New International Version), https://www.biblegateway.com/passage/?search=Matthew%205%3A10-12&version=NIV.
[168] The concept of being "re-born" in the Holy Spirit is elaborated in John 3:1-8, where Jesus supposedly explains to the head Pharisee Nicodemus that "re-born" is a physical metaphor to express a spiritual truth about turning over a new leaf (also a physical metaphor). The passage as translated and explained in the Amplified Bible is as follows: "Now there was a certain man among the Pharisees named Nicodemus, a ruler (member of the Sanhedrin) among the Jews, who came to Jesus at night and said to Him, 'Rabbi (Teacher), we know [without any doubt] that You have come from God as a teacher; for no one can do these signs [these wonders, these attesting miracles] that You do unless God is with him.' Jesus answered him, 'I assure you *and* most solemnly say to you, unless a person is born again [reborn from above—spiritually transformed, renewed, sanctified], he cannot [ever] see *and* experience the kingdom of God.' Nicodemus said to Him, 'How can a man be born when he is old? He cannot enter his mother's womb a second time and be born, can he?' Jesus answered, 'I assure you *and* most solemnly say to you, unless one is born of water and the Spirit he cannot [ever] enter the kingdom of God. That which is born of the flesh is flesh [the physical is merely physical], and that which is born of the Spirit is spirit. Do not be surprised that I have told you, "You must be born again [reborn from above—spiritually transformed, renewed, sanctified]." The wind blows where it

and repent them, not just verbally but by trying hard not to repeat them, in order to restore the right relationship between ourselves and others.

We all sin – some of us, more than others, to be sure -- but Christianity shows us the way back to repair the broken relationships and harm that we have done and thereby to heal ourselves from the wounds caused by our selfish and inappropriate behavior. Like prayer, I know that works because it has happened to me.

wishes and you hear its sound, but you do not know where it is coming from and where it is going; so it is with everyone who is born of the Spirit.'" John 3:1-8 (Amplified Bible), https://www.biblegateway.com/passage/?search=John%203&version=AMP.

Chapter Thirteen

Why Ponder Epiphanies?

I was blessed to be born to a mostly good witch, Mary Jane Bope Elliott. She was an extraordinary woman who graduated from college at sixteen with two degrees and managed to be a sorority girl and homecoming queen at a large state university, Ohio State, along the way. From there she went on to become first a high school teacher in Ohio, and then a teacher of the deaf and partially deaf, which is how she met my father at an Army base in Chickasha, Oklahoma after World War II.

I do understand that "witches" have a bad reputation with many people. They are women who are scary to many people because they understand things that most of us do not. Mary Jane was as benign, wise and loving as a flawed human being can be. She was my first and best teacher, as she once reminded me when I as an arrogant young lawyer I thought I had bested her in a political argument: "I taught you the names of the animals," she said gently and walked away. I'll never forget that line. She was trying to teach me something important about myself and humility. Now that I have recorded that epiphany in print and digital form, that part of her indomitable spirit will live on for others to appreciate as long as anyone reads this or repeats her line.

But more importantly, notice *how* Mary Jane the good witch tried to teach me an important life lessons about humility and listening receptively to other people's perspectives rather than rejecting them out of hand. She could have responded in kind to my arrogance with anger and confrontation. Instead, she gave me the blessing of an epiphany by merely reminding me of all she had done for me and walked away, leaving it to me to discover and learn the life lesson embodied in her cryptic comment as I pondered it over the years. What a perfect application of Pascal's famous advice on how to win an argument gracefully without losing a friend by acknowledging where your partner in the discussion is correct but also leading him or her to see your point of view for himself or herself.[169]

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[169] Pascal, *supra* note 82, at p. 4. For an accessible explanation, Olivia Goldhill, *A Philosopher's 350-Year-Old Trick to Get People to Change Their Minds Is Now Backed Up by Psychologists*, Quartz, https://qz.com/778767/to-tell-someone-theyre-wrong-first-tell-them-how-theyre-right.

But that lesson was not apparent to me at the time; it only became clear to me why Mom had said that years later as I had more experience and hopefully became a little wiser. As I have noted many times in these pages, that's how epiphanies often work in my experience: sometimes we have to store them up in our hearts and ponder them until we are wise enough to understand them, like Mary in the Bible.[170]

The main subject of this essay in case it wasn't always clear is parables and epiphanies and how teachers and mentors help us to understand them. And yes, I do think everything that I have written so far is relevant to that subject. It is up to you to figure out how. As a long-time Yale Law professor, I understand that students learn best when they discover something for themselves. It is our challenge as teachers and mentors to pose questions in a way and in a context that "sets the table" by making the answer obvious enough that the brighter ones can discover it for themselves and announce it proudly to the rest of the class.

That teaching technique is sometimes called "the Socratic method,"[171] although I haven't been able to see that either the historical Socrates or Plato's character Socrates actually used it. I do know that Jesus and his disciples used what later came to be called the Socratic method. That's what the parables in the New Testament are about: telling us a story that makes an important point in a way that helps us discover for ourselves something about how the universe works.

Epiphanies and parables, and the mentors and "angels" who share them with us, have been the subject of this essay. They are the moments when something about how life in this universe really works is made manifest in a way that our simple human brains can fathom because we recognize a pattern that captures the relationship between seeming random events. (By the way, that concept of recognizing hidden patterns in how reality works is more or less how one modern philosopher of science, Gregory Derry, defines "science" in his wonderful book, *What Science Is and How It Works).*[172]

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[170] Luke 2:19 (Revised Standard Version), https://www.biblegateway.com/passage/?search=Luke%202%3A19&version=RSV.

[171] *See generally* Ward Farnsworth, The Socratic Method: A Practitioner's Handbook (2021), https://www.amazon.com/Socratic-Method-Practitioners-Handbook/dp/1567928463.

[172] Derry, *supra* note 32.

Similarly, my thesis is that some of our experiences, and some of the stories and sayings that we hear, are more important than others because they can open our eyes to see a deeper principle about how life really works, and therefore how to make a better life for ourselves and for others. That's what I mean by "epiphanies."

As a child I wondered every year around Easter time how come Palm Sunday, when Jesus was lauded by the crowds as a hero to a chorus of hosannas, was less than a week before Good Friday when they killed him. That's the point dummy: **fame is fleeting**. Whether it actually happened that way historically is beside the point. As Mark Twain writes in the epigraph to *The Prince and the Pauper* "It may have happened, it may not have happened: but it could have happened."[173]

Azar Nafisi makes a similar point in *Reading Lolita in Tehran* when she argues that it is not a valid criticism to say that something didn't really happen exactly the way it is portrayed in literature. The purpose of literature, she says, is to identify the deeper meaning of events, stripped of the vagaries of what actually happened in any particular example. "*Do not*, under *any* circumstances," she writes, "belittle a work of fiction by trying to turn it into a carbon copy of real life; what we search for in fiction is not so much reality but the epiphany of truth."[174]

Epiphanies, epiphanies all around us, if only we can decipher the lessons when "God" speaks to us.

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[173] Mark Twain, *The Prince and the Pauper: A Tale for Young People of All Ages* at p. 19 (1882), https://www.amazon.com/Prince-Pauper-Classic-Illustrated/dp/1686829523.
[174] Azar Nafisi, *Reading Lolita in Tehran: A Memoir in Books* at p. 3 (2003), https://www.amazon.com/dp/B005DI857E.