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## A Final Toast to My Network

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*In the last year of his life, Professor Philip P. Frickey began a book about his personal spiritual journey to serenity in the face of a terminal diagnosis. Forced by circumstances to confront the instinctive fear of death we all share, he had found a way to normalize it, with help from a remarkable network of colleagues, students, family, friends, and treatment personnel. Though he had nurtured this network for years—extending it with little effort to encompass the leading oncologists for his particular cancer—he was both astonished and profoundly touched when it enveloped him, sustained him, and even made him laugh. His oncologists dosed him with jokes as well as anti-cancer drugs, and he loved them for it.*

*Professor Frickey intended the following essay to be the prologue to the book he ultimately chose not to write, despite the urgings of those closest to him. He had concluded that his primary message was gratitude—too small a topic, he said, to sustain an entire book. Besides, he was fully occupied with living in the present: appointments, work, family, friends, good books, baseball, and other simple pleasures became more enticing than a major writing project. Though he did not draft the prologue as a free standing essay, his coauthor and colleague Bill Eskridge pressed for its inclusion in the issue of the California Law Review (CLR) commemorating the Frickey Festschrift. He would have approved. And had he been able, he would have thanked CLR for allowing him to express his gratitude one last time, to the network of people who supported him through his final illness.*

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I am a law professor at the University of California at Berkeley. Our society respects law professors pretty much, lawyers not so much. On the one hand, this is surely ironic. One might think of a law professor as a creature even more monstrous than a lawyer, because the professor's job is to produce more lawyers. On this view, I am the human equivalent of the Queen Mother Beastie in those Sigourney Weaver "Alien" movies—though less loathsome looking, I hope.

On the other hand, I will take your respect however I can get it. However unlikely it might seem for a law professor to write a personal story about the loss of health and the recapture of spirit, if a general respect for the professorate gives me enough credibility for you to give this book a try, I will take full advantage.

The number of law professors who imagine that their lives merit a memoir far exceeds the number whose lives do. I lack the self-importance of the former and the celebrity of the latter. I have never held a high government position. I've been a successful scholar, by and large, but nothing I have written is likely to be remembered in fifty years (a good test for separating the immortals from the merely notable). I have generally received good teaching evaluations in my classes, but *Mr. Chips Teaches Law Students* is unlikely to be worth reading by anyone other than the Chips family. I have been a good institutional citizen, especially in the identification and hiring of excellent faculty, but the reader who would find that interesting needs to get out more often.

It is simpler to say what this book is not than what it is. It is not a memoir. Nor does it offer a deep religious or philosophical understanding of illness and death. It is also not one of those upbeat (read: fishy if not false) self-improvement or inspirational manuals of the "conquer your quadriplegia with a smile!" variety. It is a narrative about facing critical illness, but not a linear one of a biographical kind that reaches back to the details of childhood and brings a life down to date, in chronological order.

It is also not a story about courage. From the perspective of the outsider, the cancer victim's capacity to go about daily life, and even find humor and pleasure in it, seems courageous. From the internal perspective of such a victim, I don't think this constitutes courage, as properly understood. Anatole Broyard, the critic who wrote perceptively about his cancer in "Intoxicated by My Illness" and other essays, asserted that it was not courage, but desire—desire to keep living, to keep writing, even just to keep doing something. My friend Bill Stuntz, a Harvard law professor, has written much the same thing in a blog he is keeping about his cancer. He does not consider his behavior courageous—it is simply determining what the next step is and then putting one foot in front of the other to do it, a preference for movement over stasis. It is as simple as you do what you have to do and make the best of it.

I suppose the best term for this work is that it is a journal. Of course, along the way I must provide some biographical background, but the focus is on my health in the compressed time following a devastating diagnosis. In particular, I am fascinated with the growing disjunction between my failing physical health and my soaring spirits. Perhaps it could be called *The Journal of My Sage Year*.

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At age fifty-five, I find myself with a veritable army of medical providers, under the command of Dr. Patrick Sean Swift and Dr. Charles Ryan. Appropriately, they have the sense of humor of the Irish. They need it. They're oncologists.

After Dr. Swift explained that I had a rare, metastatic form of prostate cancer, he described the proposed treatment in a way that had me howling with laughter. (The story is both too elaborate and too personal to reveal in a prologue, but if you hang in there with me, I promise to get to it.)

Unfortunately, in relatively short order Dr. Swift's treatment stopped working, and upon his advice I switched to a clinical trial with Dr. Ryan. When in the first week of the trial I landed in the hospital with a *Salmonella* infection of the rare type called "Dublin," Ryan attributed it to my having too many Irish-American doctors.

So I think I may tell an Irish joke without fear of offending. If you are sensitive on such matters, cut me some slack. I'm pretty sick, you know. And I have a bad cancer, too.

An Irishman walked into a pub. The bartender did not know him—he was a newcomer to town. The innkeeper asked him what he wanted, and he ordered three pints. The puzzled bartender provided the dark nectar, and the man slowly drank each one, with a contented and thoughtful look on his face.

The next night the same thing happened, and bartender could not contain his curiosity. "May I ask why you order three pints at the same time?" "Of course," said the man, in a calm voice. "I have two brothers, one who went to the States and lives in Boston, and one who went to Australia and lives near Sydney. We agreed when we parted that each time one of us went into a pub, it would be all of us drinking together, remembering our childhood, keeping our brotherhood." The bartender was deeply touched. The story spread throughout town, and the newcomer was immediately welcomed and respected.

This pattern continued for several weeks, until one day the man entered and ordered only two pints. The bartender was shocked. As the man sipped the first one, the bartender could hold his tongue no longer. "Oh," he said, "I am so sorry for the loss of your brother. All of your new friends here will be so sad and want to know what we can do to help you."

The man was puzzled, then understood. “Thank you for your kindness, but my brothers are alive and well,” he said. “It’s just that I’ve given up drinking for Lent.”

Jokes are out of fashion, I’ve read, in favor of observational humor. But I love this joke. It has a strong pull of nostalgia and a need for the love of others. My guess is that every person who is seriously ill feels these needs. The disingenuousness at the heart of the joke is sweet and even wholesome. In that way, it is much like how life—especially, life with cancer—can often be navigated best not by logic, but by following the heart and humor. The key is what works, not necessarily what makes sense. The joke reflects a wistfulness that respects the primacy of the basic aspects of life. And I suppose part of it is that I have been known to have a pint or two myself, in communion with both those present and afar.

I live with advanced cancer that has been resistant to treatment. This book is my attempt to explain why the path I have found to navigate the rest of my life is very much like the Irishman with the three pints. Instead of two blood brothers, I spend time every day offering a toast (regrettably, usually without accompanying alcohol) to a wide network of family, friends, colleagues, current and former students, medical providers, and complete strangers attached to them who have shown kindness to me. This web of humanity has given me a powerful spiritual core. I have never been in worse health, or better spirits.

I had no idea this network even existed, much less the breadth, depth, and importance of it. It took an incurable illness to center me in this way.

I hope that my story may be of value to people who find themselves in similar medical circumstances (as many millions of Americans are and even more will be, given the ubiquity of cancer). And leaving cancer aside, as my friend (and retired surgeon) Cleve Trimble says, life is a terminal diagnosis—at least glimpsing a method, a structure, a narrative of spirituality is surely a desire of anyone who stops to ponder the nature of things.

Another major desire is to celebrate and thank the people who elevated my spirits in the face of the loss of life. Along the way, I hope to persuade you that, as my doctors and many others understand, the best medicine for my condition is not chemotherapy, but humor—especially, humor that somehow relates to the situation in which I find myself.

Inevitably, this enterprise will be compared to *The Last Lecture*, by Professor Randy Pausch, a computer scientist at Carnegie Mellon University who ultimately died of pancreatic cancer. In 2007, Dr. Pausch gave an inspiring “last lecture” that was seen by millions on YouTube and memorialized in a best-selling book.

Dr. Pausch’s stated goal was to explain, for the benefit of his young children, how to achieve one’s childhood dreams, something he had been

largely able to do. My project is different. I never had clearly defined childhood dreams of, for example, experiencing zero gravity (as did young Randy Pausch). Indeed, only a child with a severe mental illness would have dreamed of doing much of what I have done in my career, such as explaining canons of statutory interpretation phrased in Latin to a hundred law students at a time. My focus is not on youthful hopes at life's beginning, but on spiritual renewal at life's end.

For many people, spiritual renewal takes on a distinctly religious orientation. Mine is not a religious story—at least as religion is conventionally defined in our culture. For most people, religion is a belief in a transcendental power whose blessings depend upon defined tenets of faith, or a quantum of good works, with the occasional miracle unattributable to either faith or good works thrown in the mix. That is not my orientation. By this I mean no disrespect to conventional religion. In fact I have great respect for it, but it would be a lie to claim that (at least so far as I can tell) it is responsible for my spiritual resurrection in a time of bodily decline. (I hedge in part because many people have been praying for me, and who knows?) From my vantage point, anyway, this has occurred not through a Higher Power, but because of the affection and love of other people, which in aggregated form have given me access to the holiest and deepest that my soul can navigate. It is a bottom up, not top down, spiritual renewal.

To give you a glimpse of my sense of it, I will borrow from a renowned family therapist and author, Dan Gottlieb. When asked by Terry Gross, host of the public radio show “Fresh Air,” whether he was religious, he remarked that he attended synagogue on Friday nights, but probably did not believe what most of the other congregants did. When pressed to explain, he said something on the order of this: There is a church down the street from where he lived. The church sign proclaims: “God is love.” What if this has it backwards?

Randy Pausch and I do, of course, have two things in common—being university professors with incurable cancer. And that is an important part of my story. I have taught thousands of students over nearly three decades. I never thought I had touched more than a few of them. To my shock and great joy, I now discover that much of my spiritual renewal comes from my interactions with current and former students, who have rallied around me in a remarkable way. Both literally and figuratively, as I shall explain, my students catch me when I fall.

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In a 1992 *New Yorker* cartoon, a woman who was sprawled on a couch attempted to cheer up a slump-shouldered man standing near her. The caption read: “But you are running an empire. The empire of Phil.” I saved that cartoon and thought it summed up my life. I had a little domain of family, a few good

friends, a nice set of colleagues, a few publications that made me proud, a few students I remembered well over the years, and a vast sea of current students, most of whom I assumed would quickly forget me. I had not conquered anything. I ran no empire as a despot, benevolent or otherwise. What mark had I made; why would anyone other than a small circle of family and friends remember me? The cartoon tried to be hopeful—as Voltaire would suggest, tend one's own garden and be happy with it, seemed to be the message—but my garden seemed small and unexciting.

In later years, my sense of my life improved, but never enough to feel like an empire builder. In the past year, what cancer has done for me is show that I have the network, if not the empire, of Phil. Maybe it takes a village to face down the worst that cancer can bring. For me, the university has been a key element of my personal spiritual village. My life in the university now feels well spent. What I have achieved is not the wonderful but often fanciful dreams of a child beginning life's passages, but instead the grounded satisfaction of an adult near the end of them.

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No doubt, a narrative like this can seem unbelievable—an exercise in fraud or self-delusion. The skeptical reader might assume that the author is suffering miserably in his last illness. Is he so mentally disturbed by his situation that he has lost touch with reality, so that his death is beyond comprehension? Or if he is fully contemplating his end, how can his testimony of good spirits be taken at face value?

My story is neither fraudulent nor delusional. I deny that I am in denial, for the good reason that I am not. I have not given up hope of a medical miracle, but understand that the odds of it happening are poor. The major reason that I am writing this book is to explore, perhaps even understand, the strange intersections of my life, where decline and death occupy the same space as spiritual strength and renewal.

Although I enjoy The Who's "My Generation," I assure you that I do not "hope I die before I get old." Or, more accurately, older. I will leave a lot behind. My loving daughter, Beth, is a high-school sophomore. I would so much like to be there for her when she is in college and thereafter, but in fact I may not even get to see her graduate from high school. My son Alex, age 20, is at a crossroads in his development as well, assessing educational and vocational options. He and I are as much great friends as a son and father can be, and I wish I could be there to provide ongoing support and encouragement. My wonderful wife, Mary Ann, never dreamed that she might be a widow while in her fifties. My friends, my current and former students, my work . . . it is now all through a glass, darkly.

My tale is a frank examination of how life caught me by surprise and the network of Phil has supported me in responding to it. Of course it is not all upbeat and encouraging; there have been many moments of terror and great sadness. What I have learned is that I could not make my way through the last stage of my life if regrets about the past and anxieties about the future dominated my mind. My enjoyment of life—indeed, my very sanity—was enhanced when I discovered ways to “live in the moment”—a trite, misunderstood, and frequently dismissed concept that is nonetheless essential to someone in my situation.

For me, at least, living in the moment depends not only on self-reflective mental techniques, but the goodwill and support of others. These wonderful people are willing to move into that moment with me, suspending their own discomfort with death and finding the courage to enjoy a conversation with me, whether it concerns pain and suffering, life and death, politics, Irish jokes, University of Kansas basketball, or anything else. What I have learned is that what we have to cherish is right here, right now—this walk, this meal, this discussion, this quiet reading time. As my friend Roy Phillips, the well-known Unitarian minister who died recently, would say, “Wake up! This is it.” Or, as Anatole Broyard wrote during his final illness: “When my wife made me a hamburger the other day I thought it was the most fabulous hamburger in the history of the world.”

By way of another initial stab at explanation, consider how one of America’s favorite poets, Billy Collins, conceives of his task. The central theme of poetry, Collins has said, is death. But much of his poetry is light-hearted, even whimsical—at least on the surface. His work does not ignore death, but instead sharply focuses on the everyday elements that we can seize to enjoy life—that make life not just routine, but routinely engaging and enjoyable. His poetry suggests that living life to the fullest does not mean recklessly cramming excitement into every possible second. Instead, what one needs to relish is, for example, chopping parsley while listening to a jazz recording called “Three Blind Mice” when the thought pops into our head that the children’s rhyme is absurd. (How did all three mice end up blind? How could they have found each other? How, “in their tiny darkness,” could they have chased after the farmer’s wife, or anybody else, “not to mention why”? Why would she want to cut off their tails with a carving knife? How sad, to end up both blind *and* tailless.)

Until recently, my spirits have been helped by the fact that I have been largely asymptomatic. It helps living in the moment if the moment is not excruciatingly painful. I have some bone pain, but nothing I can’t handle. I go to the men’s room often, but then so do a lot of my friends my age who don’t have cancer. For much of the period since my diagnosis, the illness seemed surreal—like a dream from which I might awaken and find myself healthy.

Another factor influencing my good spirits has been that, initially anyway, there was always another step that could be taken if the current approach failed. We had high hopes for Dr. Swift's treatment regimen; when it failed, we moved on to hopes for Dr. Ryan's clinical trial.

As I now write, I find myself beginning to have more symptoms. In particular, Dr. Ryan's clinical trial involves chemotherapy—for the first time, the treatment has adverse, obvious side effects (for example, nausea) that turn the ignorable surreal into the ignoble real. Moreover, the trial cannot last forever. At some point—and it could be very soon—the therapy will either lose its capacity to help control the cancer, or become too toxic for me to continue with it.

What I need now, more than ever, is to find a mental place where no matter what happens, it will be all right. I am confident that I have already more or less located that site, and it is a domain populated by—indeed, in great part created by—a wonderful group of people, my network.

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Millions of Americans go through what I have been experiencing. If they attempt to write about it at all, it is probably in private journals that might be shared with family and a few friends. Why should I be any different?

One important reason that I am writing is because I have been a writer all my professional life. I have made whatever scholarly reputation I have through the written word. To be sure, legal analysis is aimed at a specialized audience and uses conventions that are not attractive to the general reader. This book is a new task for me, in that sense. But even though I am ill, I retain the writer's desire to explain and understand and even hope to contribute insight. As Anatole Broyard said, writers have privately promised their next book to the world. Moreover, with Broyard, I find myself intoxicated by my illness and hopeless against the urge to try to write about it in a satisfying way. I hope that I am up to the task that Broyard assigned when he wrote that “[t]hinking about difficult situations is what writers do best.”

My motives are simultaneously pure and selfish. I want to thank the many people who have been so kind and helpful to me. And I hope that my account can help the countless others in similar circumstances. Broyard was surely right when he wrote that although sick people need books that help them look at life beyond their illness, “they also need a literature of their own.” But I must acknowledge that writing is therapeutic for me as well.

In our culture, any serious illness in general is, at best, a matter of hushed nervousness. In particular, metastatic cancer is the disease that, like the villain in the Harry Potter books, has a name that cannot be spoken. It is irregular, shocking, a cruel twist of fate. Some of this surely is because of how cancer operates. The poet Edward Hirsch captured the repulsive nature of cancer in

remembering relatives lost to the disease: “cancer feasted on their ripe bodies [f]rom the inside.” But millions of us will go through just that, and we need to find ways to consider ourselves something other than mere carrion for metastasis. Is it really psychologically beneficial to pretend that we are all destined to live for ninety years and then drop dead in a painless instant when a vital organ shuts off or when, like a figure in a cartoon, a safe falls on our head?

By writing about my cancer, I normalize it the best I can. Writing helps me understand death as part and parcel of life, not a sharp disjunction from it. Our capacity to contemplate and even sometimes anticipate our own deaths sets us apart from the animals, but it seems to me that we use this ability very poorly—I know I have, until recently. Writing is my way of attempting to demark a better path for me, and also perhaps for others.

