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An Intimate Portrait of Peter M. Cicchino

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AN INTIMATE PORTRAIT OF PETER M. CICCHINO*

INTERVIEW BY JAMIN B. RASKIN**

RASKIN: Peter, I know that you were a Jesuit for a while and you also taught at Gonzaga High School.¹ I am wondering if you could reflect about the role that religion and God have played in your life.

CICCHINO: Well, an enormous role. As a child, I came from what I would say was a happily devout family, very devoutly Roman Catholic. My father today is still a daily communicant.

Yet, it was a critical-thinking household. The story I like to tell is when I was seven and preparing for Holy Communion. In those days—it was just after the Vatican Council²—we were still taught the Doctrine of Limbo.³ The idea was that if you were a good pagan or a Jewish person, some non-Christian, non-Catholic, or an un-baptized baby, and you died; you did not go to hell, obviously, or purgatory, but you could not get into heaven. You went to limbo, which was a place of perfect earthly happiness. But you did not get to see God. Now the nice thing about limbo was that you did not know that you were not getting first-class.

But I was still disturbed by this. Even though it sounded like a nice deal, it disturbed me. I remember going home and talking to my

* Peter M. Cicchino was Assistant Professor of Law at American University Washington College of Law from 1998 until his death. He passed away on July 8, 2000.

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1. Peter Cicchino taught for two years, from 1986 to 1988, at Gonzaga College High School located at 19 Eye Street, N.W., Washington, D.C. 20001.

2. See COLUMBIA ENCYCLOPEDIA 2864 (5th ed. 1993) (defining the “Vatican Council, Second” as a council convened by Pope John XXIII that existed from 1962 to 1965 for the purpose of spiritual renewal of the Catholic Church, and to reconsider the Church’s position in the modern world).

3. See WEBSTER’S NEW INTERNATIONAL DICTIONARY 1312 (Philip Babcock Grove, Ph.D. et al. eds., 3d ed. 1997) [hereinafter WEBSTER’S] (defining “limbo” as a concept in some Christian beliefs of an abode for souls barred from Heaven through no fault of their own).

mother about it, and my mother said, “What do you think? What do you know about God?” I said, “God is loving and kind,” and she said, “That is right; and do you think that God would do something like that?” I remember saying, “No.” So, she said, “That is right. So, you believe whatever you want—whatever you think is consistent with that, with God being kind and loving, you believe. Whatever is inconsistent with that, you do not believe.”

I joked to my mother, after I began getting arrested for civil disobedience, that in some ways I think that was the birth of my critical consciousness—to be able to say that there are certain fundamental principles without sentimentality, I will call it basically a principle of love, that trumps everything else. That whatever an institution is telling you, whatever a person is telling you, whatever contradicts that, so much the worse for it.

So yes, religion as a child. I was an altar boy, that played an immense role. Then the Jesuits taught me a very great deal. I had astonishing experiences with them. The thirty-day silent retreat,⁴ which was just an amazing experience of a month in silence, praying, meditating, and reflecting upon my life. The pilgrimage I did as a novice, where, without identifying myself, I just went out for a 7-day walk begging through some poor—we used to call them de-industrialized—communities in northern Pennsylvania. Then the texts themselves. I guess now I consider myself, and in some ways always have been, a bit of an agnostic,⁵ in that I hope there is a God. Which is to say, I hope that the basic principle of love has the final say in reality, but I am culticly indifferent. Though I still go to mass, to me there are many paths to the right way and I am easy going.

RASKIN: You and Jonathan also celebrate some Jewish holidays as well.

CICCHINO:Yes, we do both. We have a joint—a dual—religious household. We celebrate both the Jewish liturgical year, and we are pretty faithful about that, and the Christian liturgical year. It makes for a lot of holidays. We have a good time.

RASKIN: Do you talk to your nieces and nephews about God?

CICCHINO:I do sometimes, when they have asked. Often it is to correct what I think is the horrendous religious education they are getting. I have already talked to them about stories and about not

4. See *The Training of a Jesuit* (explaining that the “thirty-day silent retreat” is a part of the first stage of Jesuit training designed for work on the “Spiritual Exercises”), at <http://www.jesuit.org/Pages/formatn.html> (last visited Mar. 1, 2002).

5. See WEBSTER’S, *supra* note 3, at 42 (defining “agnosticism” as the belief that the existence or nature of God cannot be proven).

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taking things literally—they are amazingly astute; children really get the message quickly—and a little bit about heaven. Given my illness, we have talked a little bit about that, saying, “I hope there is an afterlife,” but my emphasis is on doing good now.

RASKIN: Yes. Now, you have spent a lot of your time with the poor, and often times we would identify people who make that kind of existential commitment to the poor, like Dorothy Day,⁶ as being people who are very religious. Yet, as you say, you are pretty agnostic in terms of your actual theological position. I am wondering, what is it that has given you the kind of conviction and determination to spend so much of your life in service to poor people and people who have been on the raw end of the economic system?

CICCHINO: Well, I think initially it was those faith stories. One would not know it from listening to contemporary fundamentalists, but the Gospels are just—and the scripture generally, the Jewish and the Christian scripture—are filled with God’s, as the theologians of liberation say, “Preferential option for the poor.” It is always the poor people—it is the shepherd boy; it is the nothings of this world—that God takes such an interest in. Initially, that was my deep concern.

In Catholicism we have communion and we believe that God actually enters you through the bread and the wine.⁷ Even as a kid I was fascinated by the idea that everyone had God within them, and what that would mean. That to believe that the person, seemingly alcoholic person lying in the street—the homeless person—has as much dignity and value as anyone else—has God in them—really grabbed me. I think it motivated me to try to build a world—because I saw that people were not being respected, to do what little I could—to create a world where that basic realization of the dignity of each person was recognized. But then also I would have to say, I think the cardinal virtue in my household—and I think this comes from my father with whom I am very close—was kindness, was being on the side of the underdog, was being kind, was being compassionate to people. That too played a big, big role in the work

6. See *The Catholic Worker Movement* (explaining that Dorothy Day was a co-founder of the Catholic Worker Movement in 1933, which was founded as a group of communities committed to pacifism and helping the homeless), at <http://www.catholicworker.org> (last visited Mar. 1, 2002).

7. See CATHOLIC ENCYCLOPEDIA (explaining that the Eucharist at Catholic Communion is a sacrament wherein Jesus Christ is believed to be present and enter the body through the bread and wine), available at <http://www.newadvent.org/cathen/05572c.htm> (last visited Mar. 1, 2002); see also WEBSTER’S, *supra* note 3, at 782 (defining “Eucharist” as the Christian sacrament in which bread and wine are consecrated and consumed to commemorate the Last Supper).

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that I sought to do.

RASKIN: Your colleagues know of course about your founding and directing the Lesbian and Gay Youth Project in New York.⁸

CICCHINO: Yes.

RASKIN: But I do not think we have a very clear sense of actually what you did on a day-to-day basis.

CICCHINO: What did we do? We ran clinics in drop-in centers and soup kitchens. This was the model that the Urban Justice Center had adopted.⁹ To go to where poor people are receiving another service, whether it is medical care or food or a shower or clothing, and just say, "The lawyer is in." So, I would go three times a week to a Times Square drop-in center that served many gay youth who regrettably were prostituting, and to the Hetrick Martin Institute,¹⁰ which is the only secondary school for gay youth in New York, maybe in the country, but also ran a fairly conventional soup kitchen. They would serve meals to kids and give them showers, and I would sit in a private room with a little shingle: "The Lawyer Is In."

They would come in with everything. We did a lot of welfare cases, emancipation, school discrimination, some contract disputes, just a wide variety of cases. One of the most interesting cases I had was a trans-gendered young man—a biological male who identified as a woman—who was getting harassed in a New York public school during gym time. So, we went in and we negotiated with the principal and the administration that he could have a bathroom he could use, that he would have a separate gym locker, and that they would do something about this harassment. It did seem to take care of things—it ended and he seemed much happier afterwards. There was a wide variety.

RASKIN: But you did not have a strong litigation focus? You had much more of a problem-solving approach.

CICCHINO: No, very problem solving, in family court a bit, but not a strong litigation focus. Except for where the Urban Justice Center

8. The Lesbian and Gay Youth Project is a program operated by the Urban Justice Center for system advocacy, and offers free legal services for lesbian, gay, bisexual, trans-gendered and two-spirited youths in New York City. See URBAN JUSTICE CTR., PROJECTS: LESBIAN & GAY YOUTH, at <http://www.urbanjustice.org/projects/index.html> (last visited Mar. 1, 2002).

9. The Urban Justice Center is a non-profit organization in New York City that provides legal representation and advocacy to the city's poor and homeless. See URBAN JUSTICE CTR., WHO WE ARE, WHAT WE DO, WHO WE HELP, at <http://www.urbanjustice.org> (last visited Mar. 1, 2002).

10. The Hetrick Martin Institute provides comprehensive social services to lesbian, gay, bisexual and trans-gendered youth in New York, as well as training programs to public and private youth service providers. See Matthew Josefowicz, *A New and Brighter Space: Youth Center and Services Relocate*, NEWSDAY, June 23, 1993, at 29.

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was taking class action, and then we always joined in that. Then as I left, we filed suit against the city, generally for the treatment of gay youth in foster care.¹¹ Over the years I directed the project, I just—I cannot tell you the number of times we had to intervene, threaten lawsuits—go to legal action—over individual kids who were beat up, verbally abused in foster care. It was just appalling. We finally decided to bring a class action.

RASKIN: Have you found it in any way frustrating becoming a law professor after having direct contact with clients? How have you experienced being a law professor?

CICCHINO: Yes, I do miss it. I love teaching. I always loved teaching. But I do—I maintain contact, and our neighborhood is fairly integrated where Jonathan and I live. We have sort of taken on this little boy in the neighborhood. So, I still stay in close contact with people who are very poor. But it is hard. This is such a privileged existence. It is so easy to become abstracted from the lives of poor people.

This article I wrote on *Reason and the Rule of Law*,¹² I remember giving this to faculty at a prominent university, and someone actually saying—I was talking about human goods, which seemed to be human flourishing—“Well, how do you know starvation is bad? What is so bad? Isn’t that just an assumption of yours that not having enough to eat is a bad thing?” Then, I thought, “What can one say to such a question?” What can one say to someone who has so lost touch with human reality—who is so privileged that they can seriously think this is a matter of dispute? It is the ultimate in the division between theory and praxis that drove Marx so crazy. But to me, it is at the heart of the corruption of legal academia. We are corrupt because we have lost contact with the people who are most in need of our services as intellectuals and as advocates.

RASKIN: I have a question about your Georgetown article where you make the argument that bare assertions of public morality should never constitute valid, much less compelling, interests for governmental regulation of privacy or sexuality or presumably anything else.¹³ One could see this as an attempt to develop a

11. See *Joel A. v. Guiliani*, 218 F.3d 132, 136 (2d Cir. 2000) (noting that the class action lawsuit on behalf of children, either in the custody of the New York Administration for Children’s Services or at risk of neglect or abuse, ultimately settled).

12. See generally Peter Cicchino, *Reason & the Rule of Law: Should Bare Assertions of “Public Morality” Qualify as Legitimate Government Interests for the Purposes of Equal Protection Review?*, 87 GEO. L.J. 139 (1998) (discussing whether the assertion of public morality is, on its own, enough to justify governmental regulation of equal protection rights).

13. See *id.* at 142 (noting that morality arguments fail to provide a rational basis for laws

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constitutional argument or rhetoric for John Stuart Mill's harm principle¹⁴—a basic foundational principle of liberalism. Is that essentially what you are trying to do, to develop a kind of constitutional narrative about liberalism?

CICCHINO: Well, in a way. Mill is someone I admire immensely, but I think I would go beyond that. My primary interest is in a non-theistic, thoroughly anthropocentric or human-centered ethics which is not relativist. Unfortunately—see I think Nietzsche got it wrong. I do not think it is God or the abyss.¹⁵ I think humanity stands in between that. Unfortunately, though, contemporary academia, and really the intellectual life of the West, seems to be dominated by those two alternatives. Either we have faith, we just assert there is a God, or we believe and we build what is essentially a religious or a theistic view of ethics, of right or wrong—and that would apply to constitutional morality—or we surrender to the abyss. It is like Richard Rorty.¹⁶ It is called pragmatism, but really it is an abandonment of principle. When really pressed to it, it is just whatever I feel. It is my druthers. I am firmly convinced that there is a middle ground; that in associating with others, through interaction—being in community with others—we do come to have reliable knowledge about what we need—about what is conducive to human life and what is destructive of it. On that basis, we can build an ethics. That may not be a very detailed ethics, but we can get broad principles by which to guide and organize our lives. So, in a way, though I believe—I hope—there is a God, I, like Socrates, am firmly convinced that precisely because God is good, God is ethically irrelevant, totally irrelevant.¹⁷ That we do the good because it makes us happy and it makes others happy.

RASKIN: So, you have a kind of concept of ethical absolutes that goodness means something, virtue means something . . .

that address equal protection).

14. See *id.* (explaining that the “harm principle” is the idea that prevention of harm is the only justification for stripping away an individual's rights against their will) (citing J.S. MILL, ON LIBERTY 16 (1986)).

15. See generally DAVID OWEN, NIETZSCHE, POLITICS & MODERNITY 91-92 (1995) (discussing Nietzsche's development of nihilism over various texts and his use of “counter ideals” to understand philosophy and to criticize traditional modes of thought). Nietzsche believed that science made religious beliefs unnecessary. See *id.* at 92.

16. See generally RICHARD RORTY, CONSEQUENCES OF PRAGMATISM xxx (1982) (“The pragmatist . . . thinks that the quest for a universal human community will be self-defeating if it tries to preserve the elements of every intellectual tradition, all the “deep” intuitions everybody has ever had.”).

17. JOHN RAWLS, LECTURES ON THE HISTORY OF MORAL PHILOSOPHY 3 (2000) (suggesting that because Socrates and Greek religion in general viewed good citizenship as more important than salvation, God in the Christian sense did not have an important role in society).

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CICCHINO: Right.

RASKIN: . . . beauty means something? These are definable essences?

CICCHINO: Right, and if there is a constitutional morality, which I think there is and there should be, I think it can embody this viewpoint.

RASKIN: Because it relates to empirical consequences.

CICCHINO: Exactly.

RASKIN: Goods and evils that are knowable in the world.

CICCHINO: Exactly.

RASKIN: Now, let me ask you about this, because I think you also define yourself as a man of the left.

CICCHINO: Yes, definitely.

RASKIN: Much of the left is held under sway right now by notions of deconstruction . . .

CICCHINO: Right.

RASKIN: . . . and the belief that justice, goodness, virtue and so on are hopeless abstractions that can get us nowhere, . . .

CICCHINO: Right.

RASKIN: . . . and that we really have to deconstruct those notions in order to unveil the politics that is at the heart of everything.

CICCHINO: Right.

RASKIN: What is your reaction to that powerful impulse?

CICCHINO: Well on one level I am very sympathetic because clearly in the ideology of domination, concepts of Nature, of God, of absolutism, of right and wrong, have played a very large role. They even want to call it essentialism. Those who rule—the haves—have always used these concepts to oppress the have-nots. But again it kind of goes back to that experience with my mother.

My attitude is not to say that therefore it is all up for grabs, but to say they got their premises wrong, empirically and normatively. That we can build a non-relativistic ethic that is not oppressive, that, in fact, is a powerful tool of critique. As someone very drawn to Marx, how else to point out the internal contradictions in capitalism other than to start with one's own convictions. I am firmly convinced that the opposite viewpoint leads you to the abyss. It leads you to nowhere. That its reactionary potential is simply not to be overstated. It is the equivalent of a nuclear bomb. Because if it is just all a conflict of interest, if it is just this battle, this Nietzschean battle for

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power,¹⁸ the poor and the weak will always suffer and we will lose one of the most powerful non-violent tools we have, which is rhetoric—the rhetoric of human fulfillment.

I think as a gay person living in the age of AIDS, this is very true. Because much of the first reaction, since gay people were oppressed by religion, by what we would call an absolutist or non-relativistic system of ethics, the attitude was, “Well, anything goes.” But then with AIDS we quickly saw, “Well, no, no, no, no, no.” Larry Kramer is a good example of this.¹⁹ The community adopted the most highly moralistic ethic, saying to let a person die in the streets because of, for instance, their sexual orientation. That is wrong today, that was wrong yesterday, and that will always be wrong. I think the community discovered the power of what some might call this moralistic rhetoric. Which I also happen to believe is true.

RASKIN: Speak for a moment, if you would, about being gay and what it was like for you growing up as gay, and when you came out and so on.

CICCHINO: Well, it is funny. I was fourteen. My parents—we were a family of slender means. I would not say we were poor, but we were a family of slender means. We were very happy. I have one brother and three sisters. I was sent to a boys school. My parents wanted to give me the best educational opportunity possible. I was the first person in my family to go to college. No one had a college education. They thought this would help. So, at some sacrifice they sent me off to this prep school. The other boys were talking about things in the locker room. I remember I had gotten my card to the adult section of the Kearny public library, which was not adult in the sense in which we understand it.

RASKIN: The interesting section.

CICCHINO: Right. In that you could just go into where the older people had their books. I remember reading one psychology textbook after another and thinking, oh, that is what I am. I am a homosexual. It never upset me. Seriously, I never thought that God was against me. I knew that it was something that would bring harm, and I was afraid to tell my parents and afraid to tell people, and did not really come out until after college in the Jesuits, when I began to tell everyone about this. But then because I was a celibate, it was very

18. See FRIEDRICH NIETZSCHE, *ON THE GENEALOGY OF MORALS* § 17 (R.J. Hollingdale & W. Kaufman trans., Random House 1989) (1967) (“[A] conqueror and master race, which organized for war and with the ability to organize, unhesitatingly lays its claws upon a populace perhaps superior in numbers, but is still formless and nomad.”).

19. See Letter from Larry Kramer, Founder ACT-UP (June 21, 2000) at <http://www.hivdent.org/publicp/ppalflkfau062000.htm>.

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private. I used to say that the Jesuits were a closet that would do Imelda Marcos proud. It was a very interesting way of being out. There were hundreds of people who knew I was gay. But you were not publicly gay. Like, you could not be in the *New York Times*—be quoted in the newspaper or something.

But again, I think being gay did so much for me. I think it made me more introspective. I think it gave me a kind of intuitive or natural bias towards people who are misunderstood and subordinated. I think it made me more compassionate. I think it made me feel an outsider when here I was a white man in America, well-educated. Being gay made me feel solidarity on the deepest level with all those other outsiders who have lies told about them and who every day confront images of subordination. I really believe it is one of the great gifts of my life being a gay person.

RASKIN: Tell us about your relationship with Jonathan.

CICCHINO: Jonathan, my partner. Jonathan and I met—it is a funny story. I guess I was by then—what was I, thirty-six or thirty-seven? It was just four years ago. I had given up. I had done the dating thing after leaving the Jesuits. I remember talking with my father. My father said, “Oh, give it time. You will find someone when the time is right.” Very Zen. I thought, “You know, it is not going to happen.” I had literally given up.

It is a funny story. He called me and wanted to meet with me. We had had interaction because of his law school application and some public interest stuff he had done. We have just a huge number of mutual friends. It is a funny story. I was doing an article, the welfare debate was going on. I had a number of eviction cases. It was a terrible time, just very busy, very oppressed. I said, “I can meet with you in a month.” He was very gracious about it. He said, “Okay.” So, on the day he arrives, this article, *The Problem Child*,²⁰ I am fighting with the editors about that. Some clients in a tier two shelter were being evicted. I have to run down to do that. It is just a horrible day and I was going to cancel, but he showed up early.

We went off to a place called The Big Cup, which is on Eighth Avenue in Chelsea, a very gay place—a coffee shop—and my mood instantly changed. We had the best time. After forty-five minutes of just the most wonderful interaction, I said to him, “I am embarrassed. I know you wanted to talk about business, and I have used all our time. I have a meeting with Legal Aid. I have got to run.” He said, “I did not want to talk about business.” Then I said, “Well then, what

20. See generally Peter M. Cicchino, *The Problem Child: An Empirical Survey & Rhetorical Analysis of Child Poverty in the United States*, 5 J.L. & POL'Y 5 (1996).

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did you want to talk about?” He said, “I wanted to talk with you!” I smiled and my jaw dropped. So, then we separated, and immediately I was on the phone and the lines were buzzing, and everyone . . .

RASKIN: Well, how did he know about you?

CICCHINO: Well, it is a beautiful story. He was talking to Terri Gerstein, a woman who is a mutual friend, who is a very close friend of Jonathan's. They were at Harvard together. Who I had helped with a Skadden Fellowship.²¹ Jonathan was lamenting the fact that he was single, and he said, “I am a nice guy. I deserve someone wonderful.” To my dying day, I will be grateful to Terri. She said, “Someone like Peter Cicchino.” Jonathan took that literally, took that very seriously, and he called me up. That is Jonathan. He is very dutiful. So, that is how it all happened. After that it is all history. We instantly connected. My family just loved him. His family took to me.

RASKIN: Was it tough for you guys to decide to accept the job at the Washington College of Law and the move down here? Tell us about that.

CICCHINO: Somewhat, because he and I have family in—he has family in New York City. I have family in New Jersey very close by. We are very close. I came home from giving a talk at another school where I was being considered for a job and Jonathan said, “How did it go?” I said, “Well, you know, it is a very elite place.” We talked about it, but I just—it did not have any of the warmth of WCL. I told him how I just felt so connected here. He said, “Then you should go accept.” He said, “Do not drag this out any longer. Call up Claudio Grossman, who is the dean, and accept. Because you have made good decisions in the past. You know what is right for you and this seems right for you.” I thought, “You know, he is right. It is just that everything feels perfect.”

RASKIN: What did you like about the place?

CICCHINO: I liked the obvious commitment to social justice. It just seemed like a place—as my colleague Mike Tigar once said—where people come to work wanting to do justice.²² I also knew

21. The Skadden Fellowship Foundation awards “twenty-five fellowships per year to graduating law students and outgoing judicial clerks. Fellows provide legal services to the poor, elderly, homeless and disabled, as well as those deprived of their human rights or civil rights.” For more information, see *Skadden Fellowship Program*, at <http://216.44.201.143/skadweb/communityFellowship.html> (last visited Mar. 1, 2002).

22. Michael Tigar is a professor at the Washington College of Law and premier defense attorney who has authored several books and articles on the federal appeals process and litigation techniques. See, e.g., MICHAEL TIGAR & JANE TIGAR, *FEDERAL APPEALS: JURISDICTION AND PRACTICE 1* (1999); Michael Tigar et. al., *Paul Touvier and the Crime Against Humanity*, 30 *TEX. INT'L L.J.* 101 (1995).

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people's work. I knew of you through my friend John Bonifaz.²³ I knew of Nancy Polikoff because of her landmark work on lesbians and lesbian mothers.²⁴ I knew of the clinical program— of Elliott Milstein.²⁵ I knew of a number of people here— of Ann Shalleck.²⁶

But when I came, people were warm and funny. There is that indescribable thing we call chemistry. There just seemed to be such connection. I remember giving my talk and just having so much fun with it. People, though very generous and courteous, were also arguing in a kind of free-wheeling, frolicking way. It just seemed to be the antithesis of what I had experienced at other schools— instead of this alienated, competitive kind of nasty little existence.

I will tell you a story. I was at lunch with this dean of this law school where I was being interviewed and we were with some faculty members, and they like to pepper you with questions. So, I said, "Well that is enough. Now I am going to ask you a question. Are you happy here? How concretely does teaching at the University of X Law School make you happy?" There was stunned silence. Utterly stunned silence. It went on for quite some time. Then the dean did this rap about, "Well, we are multidisciplinary and we are interacting with other people. You do not have to find your support within the school, you can find it outside." Which to me is just a euphemism for, "I hate my colleagues, I am not happy here." But it was very powerful. Whereas here when I asked that question, people were very ready to say how being here fit in with their lives as human beings. It was an integral part of being a happy and a good human

23. John Bonifaz is a public interest lawyer who is the founder and executive director of the National Voting Rights Institute, and one of the nation's leading legal advocates for campaign finance reform. See NATIONAL VOTING RIGHTS INST., WHAT WE DO, at <http://www.nvri.org> (last visited Mar. 1, 2002).

24. Nancy D. Polikoff is a professor at the Washington College of Law who has written extensively on the gender and sexual orientation based legal issues surrounding marriage and adoption. See, e.g., Nancy D. Polikoff, *Family Law and Gay and Lesbian Family Issues in the Twentieth Century*, 33 FAM. L.Q. 523 (1999); *Resisting "Don't Ask, Don't Tell" in the Licensing of Gay Foster Parents: Why Openness Will Benefit Gay and Lesbian Youth*, 48 HASTINGS L.J. 1183 (1997); *The Social Construction of Parenthood in One Planned Lesbian Family*, 22 N.Y.U. REV. L. & SOC. CHANGE 203 (1996).

25. Elliott Milstein is a professor at the Washington College of Law who has authored various articles on clinical scholarship in the legal field. See, e.g., *Reflections in Brick and Mortar: Building a Vision, Realizing a Dream*, 45 AM. U. L. REV. 11 (1996); *The Emergence of Clinical Scholarship: WCL Setting the Pace*, 1990 AM. INQUIRY 29 (1990).

26. Ann Shalleck is a professor at the Washington College of Law and a member of the District of Columbia Task Force on Gender Bias in the Courts. She has authored numerous books and articles on clinical education, child welfare and women's rights. See, e.g., ANN SHALLECK, *TEACHERS MANUAL FOR TRIAL TRAINING* (1989); *Feminist Theory and Feminist Method*, 7 AM. U. J. GENDER, SOC. POL'Y & L. 229 (1999); *Theory and Experience in Constructing the Relationship Between Lawyer and Client: Representing Women Who Have Been Abused*, 64 TENN. L. REV. 1019 (1997).

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being. I am very big on happiness. I think this is one of the failings of the left. I think sometimes we tell people—students who are interested in doing progressive work, or social justice work—it has got to be like a kind of martyrdom. I say, “No. I am so much happier than my friends who went to firms. I just think you will be happy.” We need to tell people that more. We need to tell the American population—the rich people in the United States—that you will be happy if there are no children suffering in Harlem or Watts or the other impoverished places in the country.

RASKIN: I have got to say you always seem to be a very happy political warrior. You do not ever seem to be filled with hatred or negativity or anger toward the other side. But tell us the story about Patrick Buchanan and Gonzaga.²⁷

CICCHINO: Oh, that is a funny story. I was a Jesuit and you may remember the Contras, the Nicaraguan counter-revolutionaries, which were a CIA creation.²⁸ On August 4, 1986, the Congress voted—I think it may have been the last appropriation after the Boland Amendment²⁹—27 million dollars for them.³⁰ So, a group of us went into the Rotunda, 100 or so of us, and we knelt in a circle and we prayed. We refused to leave. They had to clear the Rotunda. Anyway, we were arrested. The Reagan Administration was trying to come down hard. They charged us with three federal misdemeanors. It was in the papers. Pat Buchanan, and his brother Henry—the Buchanans are big benefactors of Gonzaga . . .

RASKIN: and graduates.

CICCHINO: . . . and graduates. Oh, yes, Buchanan Field is named after them. So, they wrote a letter to the president of the school, who came to me, Father Dooley,³¹ and it was a very angry letter. It said that I was not fit to teach these boys. They accused me of being a bad example and that I should be a janitor. Of course, I thought that was very classist. Being a janitor is good, noble work. So, they wanted me fired, or at least they did not want me dealing with the boys. But

27. See *supra* note 1.

28. See, e.g., Paul S. Reichler, *Holding America to its Own Best Standards: Abe Chayes and Nicaragua in the World Court*, 42 HARV. INT’L L.J. 15, 20 (2001) (detailing the creation of the Contras by the CIA as a counter-revolutionary army trained by Americans to overthrow the Sandinista government).

29. The Boland Amendments were riders to the Defense Appropriations Act for Fiscal Year 1983, which banned any U.S. military aid to the Contras. Pub. L. No. 97-377, § 793, 96 Stat. 1833, 1865 (1982).

30. See International Security and Development Cooperation Act of 1985, Pub. L. No. 99-83, § 722(g), 99 Stat. 190, 254 (1985) (appropriating \$27 million for “humanitarian assistance to the Nicaraguan democratic resistance,” on August 8, 1985).

31. Rev. Bernard J. Dooley S.J.

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fortunately the Jesuits were great and the school stood by me, and nothing ever came of it. But I do think it kind of funny that that was my one run in with the Buchanans and with sort of right-wing politics in America.

RASKIN: How have you guys liked living in Washington, D.C.?

CICCHINO: We have loved it. We love the neighborhood. We miss New York, but Washington is in many ways—and I do not mean this in a patronizing way—it is a small town compared to New York.

I will tell you though, one of the things we looked for at the time before I was ill, we had thought of adopting a child. That would have been what we would have done. Just as I arrived, I read in the papers that because of the whims of some crazy representative somewhere in the mid-West—though the people of the District wanted very much to allow same-sex adoption—the House of Representatives was intervening to forbid it. That sense of disenfranchisement—now I had lived here for two years at Gonzaga—but the sense of disenfranchisement was never clearer to me. Jonathan and I are still upset about that. It is just so wrong. It is so demeaning that any yahoo from anywhere in the country who wants to score points with his constituency or someone else can intervene in the governance of the District.³² Talking about being gay about being poor, it is one more sign of status subordination. Where else in the country would this be tolerated?

Still though, I love the District. We have made great friends. The parks are wonderful, the museums. I could go on and on about it. Still, we live in the last plantation. There is no doubt about it. It is very hard restraining one's anger at the injustice of our Congressional overseers.

RASKIN: Yes.

CICCHINO: It is infuriating.

RASKIN: Everyone marvels at your ability to keep things going despite the terrible medical difficulties that you have been facing.

CICCHINO: Yes.

RASKIN: People really talk about how you handle cancer better than other people on the faculty handle a cold. So, what can you say about that experience?

CICCHINO: I do not really know. I would say two things. One is that I think I have a good—I think I have an ability to live in the

32. See *Adams v. Clinton*, 90 F. Supp. 2d 27, 34 (D.D.C. 2000) (noting that the U.S. Congress is the legislature for the District of Columbia and as such has the ultimate power over the legislation that governs it).

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present, which helps. To enjoy the moment as it is happening. That helps immensely, not to be overcome by the terrors of the future. But—and I mean this very sincerely—I do not know of another human being who has as good a life as I have. I mean this sincerely. I have Jonathan, the most wonderful spouse. I have a great home. I have a wonderful job. This job could not be more privileged. So, at home there is all this love. My family, my brother and sisters are so affirming, my parents. I come to work, my colleagues are astonishing. I was doing this experimental chemotherapy in Richmond, which was a big deal. It meant picking me up at a quarter of seven, getting home after 7:30 at night—I was on this machine—driving me to Richmond. Yet, my colleagues filled up the sign-up sheet within twenty minutes. There were people who were clamoring to get on it. So, I get all this affirmation from my students, from my colleagues. I just feel like I am the object of all of this love and affirmation pouring in. In some sense, how could I not be happy? It is such a source of strength for me. If anything, I feel overcome by gratitude, but also unworthiness. I think, “How can I ever show my gratitude for the immensity of the love that has been shown me?” People are just so good to me. I feel like Blanche DuBois: I have always survived on the kindness of strangers.³³ It is amazing how good people are to me.

RASKIN: You know, the faculty of course has voted unanimously with your abstention to create these Peter M. Cicchino Awards.³⁴

CICCHINO: This is mortifying. Right.

RASKIN: The Cicchino Awards are for outstanding service in public interest and one will go to a student, upper level student, each year; and one to an alum who works in the United States, and one whose work is abroad. Tell me about how you have experienced that and then also what your hopes for this would be.

CICCHINO: Well, obviously, it is totally mortifying because there are people here who have done so much more and are so much more deserving of it. But I took my brother’s advice. My brother says, “When you receive an absolutely undeserving act of generosity, just be grateful.” I am very pleased. Nothing could mean more to me. We just so desperately need to help students overcome the fear that

33. TENNESSEE WILLIAMS, *A STREETCAR NAMED DESIRE* 178 (1947) (quoting the main character “Blanche DuBois” in the last line of the play as she is assisted by a stranger and responds “Whoever you are - I have always depended on the kindness of strangers.”).

34. The Peter M. Cicchino Awards were created in April 2000 to celebrate public service in the legal community. See Dean Claudio Grossman, *Introductory Remarks to the Peter M. Cicchino Award Symposium & Ceremony*, 9 AM. U. J. GENDER, SOC. POL’Y & L. 11, 13 (2001) (commemorating Peter M. Cicchino’s dedication to pro bono work by creating the award in his honor).

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prevents them from doing what their ideals tell them. I am on the admissions committee, but I know this is true nationwide—both through my reading and from talking to other colleagues on admissions committees at other schools. Law students come in and they are so idealistic and they are arguably among the most privileged, which is to say, the freest people. They have so many opportunities. But then somehow all of these bright, energetic, free people get frightened and timid and they are shepherded into one way of doing things.

To the extent that these awards can affirm public interest work—can say that the law, like the Church, though deeply flawed as an institution, has so much promise for human emancipation and for freedom and dignity—I really hope that these awards will help encourage WCL, American University law students to go into public interest work, and I hope that fundraising around it will be successful. You know public interest lawyers are always short of money, short of money for their projects, for their work, short of money for their living. That ideally maybe one day we will be able to give a significant stipend or award with this that someone could further fund their work or just pay the rent. But I could not be happier. There is simply no honor or award that could mean more to me than something like this.

RASKIN: Yes. Well, because you are so visionary. I look up to you. You are a year older than me. You are turning thirty-nine?

CICCHINO: I will be forty, actually. Come this August, I will be forty. My fortieth birthday—I am hoping to make it.

RASKIN: Make some predictions about the future. Let me name some things and you tell me what is going to happen.

CICCHINO: Okay.

RASKIN: Gay marriage: will we see that?

CICCHINO: Definitely. Gay issues—we are on the winning side. That is one that there is no doubt in my mind.

Now by winning side, I mean we will successfully integrate into American society. The downside of that is I fear we will not retain our progressive edge—that many gay people will be content to join the country club without thinking of those who are outside. But on gay issues—no, I think we have won. It is just a matter of time.

There is this great scene in a movie called *Searching for Bobby Fischer* where this wonderful little boy who has won a chess championship says to his opponent, “You have lost, you just don’t know it.”³⁵ I think

35. *SEARCHING FOR BOBBY FISCHER* (Paramount Pictures, 1993).

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that is true of the right wing in this country over gay issues. They have lost. They just don't know it.

RASKIN: What about the plight of the poor in a global society that in some ways is in a state of unprecedented wealth where some people have unfathomable privilege from the perspective of fifty or one-hundred years ago?

CICCHINO: That is a harder one. The optimist in me says I really do believe that ultimately the forces of reason and compassion triumph. I really do believe that in the end, it will work out, that we will finally establish a just system. Which is to say that capitalism has to go. You cannot have a system that treats people like commodities. On the other hand, in the short term there will be much suffering as the totalizing effect of capitalism has its way. Michael Kinsley wrote a piece a few years ago for *The New Yorker* saying that Marxism is the philosophy of the future. I have a friend who is an investment banker, I will not name with what firm, but he says Marxism is a growth stock, invest in socialism. I think what he means by that is that Marx was basically right in the broad contours of his thinking. Capitalism, the market, pretty much is globalizing itself. It is completing its global domination. Even to the point where what we used to think of as sovereignty, as nation states, are becoming less and less relevant. I think once that task is done, the people of the world will have to confront what has been visited upon them—the inequities of that. My hope is you will have a sense of solidarity, a sense of organization across national, gender, class, racial lines to make it a more humane system. But that is an act of faith on my part. There is no guarantee of it. As Jonathan Schell has been writing lately, though we do not talk about it much, the presence of an immense number of nuclear arms that are proliferating throughout the world make the likelihood that we might go out with a bang and not a whimper ever more likely.³⁶

RASKIN: Your deconstructionist critics, might say that it does not even make sense to talk in terms of meta-abstractions like capitalism.

CICCHINO: Right.

RASKIN: That such a thing does not really exist.

CICCHINO: Right.

RASKIN: Yet, you seem to have a kind of . . .

36. See JONATHAN SCHELL, *THE FATE OF THE EARTH AND THE ABOLITION* 124-26 (2000); JONATHAN SCHELL, *THE GIFT OF TIME* 11 (1998) ("The world's political achievements have raced ahead of its technical achievements. In the political realm, peace reigns, but in the technical realm, hostility – indeed, the threat of 'mutual assured destruction' – remains the order of the day.").

CICCHINO: Yes. In the piece I wrote on being a political lawyer³⁷—I think we need high theory. We need grand narrative. You need the big story. It is one of the rhetorical weaknesses of the left that we have fled from that and been unable to put together a story. But it is also ironic, that at the very time—and I make this point in that piece—that capitalism is doing exactly what the high theorists predicted—what Marx predicted. It is total globalization—it is totalizing effect—in all aspects of our lives. The law and economics movement is a good example of this. They even want to turn familial relationships into market transactions. We are abandoning theory and I think that is crazy.

I think that, obviously there are always subtleties or approximations, but I think terms like “capitalism” do mean something. I think they have descriptive power and accuracy. If you are going to forego using those terms, you might as well forego talking about reality. It is no accident that—if you want to call it the post-modern left, whatever you want to call it—that so many progressive intellectuals are utterly trivialized, are utterly marginalized. They are not only not engaging in the work, but they are having no effect on the body politic because they cannot talk to people.

RASKIN: People do not think that socialism will replace capitalism because capitalism has already replaced socialism in so many places.

CICCHINO: Right. But I am with Chesterton on this. Chesterton said about Christianity, “It is not that it is a good idea that failed; it is a good idea that has never been tried.”³⁸ I just think, where is socialism? You think of Scandinavia. But even in this country, where we have socialized, that is to say, where we have adopted a policy of rational economic planning where people are not treated as commodities, I think it has been enormously successful and popular. There is always a problem of incentives. I firmly believe—only because if we are to survive, we have to have a system that does not treat people as commodities. Something like socialism will be the system that replaces what we have. That is to say, a system that recognizes basic economic rights; that recognizes a decent level of material living for all people; and that ceases to treat human beings and human labor as if it is a VCR or a wrench, something that can

37. See Peter M. Cicchino, *To Be a Political Lawyer*, 31 HARV. C.R.–C.L. L. REV. 311, 313 (1996) (“we . . . need analytic storytelling communicated in comprehensible narratives that incorporate broad generalizations about cause and effect relationships in the world and are expressed in the appealing language of transhistorical right and wrong . . .”).

38. See G.K. CHESTERTON, *WHAT’S WRONG WITH THE WORLD* 48 (1910) (“The Christian ideal has not been tried and found wanting. It has been found difficult and left untried.”).

just be traded like any other thing.

RASKIN: Let me ask you to look ahead in one other way, which is about religion. In a time when science and technology are so triumphant and pervasive, what is the role for religion? Does religion become the place where people who are not part of the system rally? Or does it become a shelter for irrationality and superstition and violence? Does religion have a positive role to play?

CICCHINO: I think it has both. I think on one hand, it is positive. Unfortunately, I really believe it will be the most enduring refuge of the irrational, the bigoted and the reactionaries. We see that in the religion in our own country. The whole Bob Jones controversy.³⁹ Where religion, I think, can play a positive force is where it gives up its pretensions to exclusivity, where we become culticly indifferent. Who cares whether you are a Catholic or a Buddhist? We emphasize the ethical; we emphasize doing justice to one another. In that sense, the stories and the rituals of the world's religions—they offer immense sustenance. It is one thing to read Immanuel Kant; it is another to go to a Yom Kippur service and to hear the readings and to sing the songs. I think that there is an aesthetic element in all of this that people need and it appeals to them, and it speaks and motivates them in a way that non-religious discourse never will.

If nothing else, when you say you believe in God—and I usually think of the speech that Martin Luther King gave—for me it means that you believe that though the arc of the moral universe may be long, it bends towards justice. That you believe we really do reap what we sow. That you believe that somehow kindness, that reason and compassion have the final say over violence and greed. That is a faith or a hope that I just think is indispensable to living a happy human life and to progressive social transformation. I think more and more people are seeing that as a way of sustaining us for the long haul. Because though anger is so important and righteous anger is so important in a political context—it is a political virtue—it cannot sustain you for the long haul. It just eats you up too much. You need something else. I think that is what Ghandi was getting at with *satyagraha*.⁴⁰ You need love ultimately, even for one's opponents.

39. See Colbert I. King, *Bush Caters to the Bigotry of Bob Jones*, WASH. POST, Feb. 28, 2000, at A15 (criticizing President Bush for speaking at Bob Jones University, an institution that perceives "Catholicism and Mormonism" as "cults"). King quotes Bob Jones III, President of Bob Jones University, as stating, "We basically accept that there are three races – Caucasians, Negroes and Orientals. Caucasians can't date Orientals. Orientals can't date Caucasians, and neither of them can date Negroes." *Id.*

40. See MOHANDAS K. GANDHI ET AL., VOWS AND OBSERVANCES 19 (1999) (articulating the core religious practices of Gandhi, which included *satyagraha*, or non-violence).

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RASKIN: Great, Peter. Thank you for talking to me. we are going to save this forever at the Washington College of Law.

CICCHINO: Thank you. I really appreciate it. Thank you, Jamin. Thanks a lot.