TIME AND CHANCE

John Simon

The old story about the Holy Roman Empire—that it was neither holy nor Roman nor an empire—applies to some extent to my talk, because I'm not sure that all of the "intellectual trajectories" I'm going to discuss qualify either as "intellectual" or as "trajectories." Some of my stories are vocational, avocational, entrepreneurial, or professional—and only party intellectual. If the word *trajectory* means a core or central pathway pursued over decades, I'm not sure that I really have that kind of a trajectory to talk about. I have followed many trajectories, some of which are long-term but few of which are linear: there have been lots of detours or side roads, if not dead ends.

I guess the reason why these trajectories are not all that linear is that so much in my life has been unanticipated; it has been a life of surprises. I suppose that happens to all of us, but it has happened to me a great deal, and therefore the theme of my talk today is a passage from *Ecclesiastes* 9:11: "I returned, and saw under the sun, that the race is not to the swift, nor the battle to the strong, nor yet bread to the wise, nor yet riches to men of understanding, nor yet favor to men of skill, but time and chance happeneth to them all." Time and chance are what happened to me all the time. My story includes a series of different time-and-chance happenings, involving the fields of academic law, law practice, journalism, philanthropy, civil rights, and other areas. My movement in and out of these different areas was partly a function of time and chance.

There was at the very start, and for many years thereafter, what looked like a long-term trajectory, in the field of journalism. In a way, I grew up in that field. My father worked for the *New Yorker* as a music critic, starting with the very first issue of the magazine back in 1925, and I had a cousin who was in the publishing business;

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the Simon and Schuster firm still bears his name. And so as a child I thought I would grow up in the "word game." At the age of nine or ten I published a newspaper. It was "printed" on a Ditto machine at home and went to about six or seven people. When I went to summer camp, I edited the newspaper there. Later, I was the coeditor of the paper in a high school where we had our own Linotype and our own printing press. The Linotype produced "hot type"—molten lead that squirted occasionally and got you in trouble. (There is no such thing any more.) I became addicted to journalism. In college I worked on the *Harvard Crimson* full-time and became its president. One summer I was a reporter for a newspaper in Bayonne, New Jersey. At Harvard, my one serious academic endeavor was an honors thesis in the field of American history and literature. What was the subject? Journalism. It was a dissertation on newspaper monopoly—on the "one-newspaper town" phenomenon and, more generally, on media concentration. My dissertation readers, Arthur Schlesinger, Jr., and Oscar Handlin, said they liked the paper, but I think, as I look back on it, that they probably were especially attracted to the topic—a topic that continues to interest me.

The journalistic path soon branched out in a different direction—the first of many twists and turns. In my junior year at college, three of us on the *Crimson* prepared some special supplements of the newspaper devoted to recent or pending controversies over academic freedom—controversies inspired by the growth and spread of McCarthyism as it affected universities around the country, with teachers being fired, student groups being suppressed, and so on. This academic freedom series, in turn, led me to an interest in civil liberties. As a result, I took a graduate political science seminar in civil liberties with Robert McCloskey. That seminar, in turn, led me for the first time to an interest in law. So, from journalism to civil liberties to law. I decided to apply to law school—to my surprise, because I thought I was going to go into newspaper work. Actually, I decided that I really wanted to go to law school only if I could get into Yale; otherwise I would go into newspaper work. Well, time and chance smiled on me. I was admitted to the Law School here, and here I went.

At Yale Law School I spent most of my time, once again, out of the classroom, working for the *Yale Law Journal*, where I became the article and book review editor. Why the *Yale Law Journal*? Not because of the professional training it gave me or the career advancement it might provide, but—back to journalism—because I liked the "word game." I liked writing and publishing and editing. (Incidentally, nowadays there is not one law journal at Yale Law School but eight of them!) And I was still interested in newspapers, so my major scholarly product at law school, while writing for the *Yale Law Journal*, was—you guessed it—about newspapers. Really, a somewhat legalized version of my undergraduate dissertation—an article published in 1952 called "Local Monopoly in the Daily Newspaper Industry."

By the way—a little detour—the situation has changed with respect to local monopoly. There is more and more local monopoly in the print media, but now, with all the internet, television, and other nonprint media, it's a little harder to say that

there isn't some degree of pluralism on the local scene, even when there's only a single newspaper. Another major change since 1952 is that even the single newspapers in monopoly towns are in jeopardy, for the print media are in a state of serious economic distress. The *New York Times* has reported that most of the twenty-five top newspapers in America had declining circulation in 2007, and ad revenues are down—all of this leading to drastic newspaper staff cuts across the country. So the print media, I'm afraid, are in some trouble, and I'll refer to that again later.

At law school my civil liberties interests—triggered, originally, by the academic freedom dramas mentioned above—continued. As a result, my other published student piece at the *Yale Law Journal* dealt with criminal procedure—the protection of the rights of suspects undergoing jailhouse interrogation.

Now, time and chance again: Just before I entered law school, the Korean War started, and in my first year at Yale I decided to enlist in the Army Reserves for once-a-week soldiering in New York. In what kind of a unit? You guessed it! A journalism unit: the 351st Loudspeaker and Leaflet Company. We trained in New York one evening a week to figure out how to broadcast to the enemy and get them to surrender on the front lines. We were told that when we were activated that's where we would be—on the front lines with our loudspeakers, urging surrender. A decade earlier I had seen the Broadway musical *Lady in the Dark*, in which Gertrude Lawrence sang a song called "The Saga of Jenny," which contained this line: "In twenty-seven languages she couldn't say no!" Well, here, at the 351st Loudspeaker and Leaflet Company, in twenty-seven languages we could say, "Surrender or die!"

After graduating from law school, I was required to go on active duty, starting with sixteen weeks of infantry basic training unrelated to loudspeakers and leaflets. We were told that we were going to be shipped to Korea for combat duty, but then time and chance intervened again. The Korean War ended. Eisenhower found a way out in the summer of 1953, while I was in basic training.

Immediately after basic training, I was commissioned in the Judge Advocate General's Corps and assigned to the Army general counsel's office, a civilian office in the Pentagon. We wore civilian clothes and were told to call ourselves "mister" rather than "lieutenant," so that we would not be despised as lowly lieutenants by the colonels and generals with whom we were working. We fooled no one; they all knew we were lowly lieutenants, although few of them despised us.

Again, time and chance intervened. Just as I started working at the Pentagon, in the fall of 1953, Joseph McCarthy began his assault against the Army for cosseting and sheltering—whatever the expression is—a lot of Communists. Soon the celebrated Army-McCarthy hearings began, and I spent all my time working on the hearings. That was the most absorbing experience I ever had as a lawyer, because we were, on behalf of the Army, opposing what we thought was a poisonous enemy—in front of the klieg lights, on national television.

In the wake of the Army-McCarthy hearings, a few of us Pentagon youngsters began to wonder about what damage had been done under the Army's loyalty security program in the prior years, when the civilians in the Pentagon, not the military, were trying to prove how very tough they were on communism and, accordingly, erected a fairly oppressive—and in many ways unfair—set of loyalty security rules and procedures. So we poked around and found some pretty bad stories, and we persuaded our bosses to let us reopen approximately one thousand loyalty security cases that had resulted in adverse determinations against soldiers (mainly Korean War draftees). What we found was quite disturbing, and we managed to get many of these discharges changed. Incidentally, my main colleague in this somewhat exhausting but exhilarating effort was another young Army officer, Lt. Derek Bok. After my uniformed tour of duty ended, I stayed another year and a half at the Pentagon as a civilian, to complete this review of the old cases. It was during these Pentagon years that my interest in civil liberties, originally born at the *Crimson* (when we were producing the academic freedom series), took further root as one of my "trajectories."

Where next? I thought that, after the Pentagon, I would continue in legal work, preferably in some kind of journalism-related job. I was offered a tempting position at the general counsel's office of the *Washington Post,* but decided to enter regular law practice instead, and so I joined the New York firm of Paul, Weiss, Rifkind, Wharton and Garrison as a litigating lawyer.

But soon time and chance took me in another direction—or one or two other directions. Among the clients of the Paul, Weiss law firm were Stephen and Audrey Currier. She was a member of the Mellon family who, together with her husband, was starting a new foundation called the Taconic Foundation in New York. It was going to be deeply involved with civil rights, as very few foundations were in those days—indeed, almost none. The Curriers asked a mutual friend whom they might get to administer this foundation. This friend recommended me, saying that I had been interested in civil liberties, which the Curriers thought meant civil rights. (They are rather different subjects.) On the basis of that confusion, I met the Curriers, was invited to take the Taconic job, declined it, but went on the board of the foundation. This step, in 1959, was my introduction to philanthropy, which then became a major preoccupation of my academic and nonacademic life. It was also an introduction to the field of civil rights, another lifelong involvement.

Again, time and chance brought me close to another possible trajectory: "Third World" development. In early 1961 two friends in Washington, during the very early days of the Kennedy administration, were working for Sargent Shriver as he started up the Peace Corps. These friends brought me to Washington for an interview with Mr. Shriver, and he invited me to become deputy director of the Peace Corps in Nigeria, a job for which I thought myself singularly ill-equipped. The Peace Corps contingent in Nigeria consisted of two thousand schoolteachers. I knew nothing about schoolteachers or about Nigeria, but Shriver took the position that young lawyers

could do almost anything, which I felt was quite mistaken. (My interest in elementary and secondary education, which might have helped, was to come later on.) For this reason—and also because of medical advice not to introduce our six-month-old baby to a new germ pool—my wife and I decided, quite reluctantly, not to go to Nigeria. But, I thought, if I was not going to do something exciting like the Peace Corps, I should at least find some other alternative to law practice. I had been interviewed here at Yale for a teaching job at the Law School. I was not sure I wanted to go into law teaching; it didn't sound very exciting. Indeed, when I met with the faculty before getting a job offer here, I was asked why I wanted to teach law and said I wasn't sure I wanted to teach law. That, incidentally, at this peculiar place, was a terrific answer. But I meant it. While the faculty was considering my appointment, I decided that I didn't want to go through with it. I decided to place a call to Dean Rostow to withdraw my name from consideration. Again, time and chance intervened. I was on the verge of dialing the dean's number one morning when the phone rang. It was Rostow. "Good news, John! I have very good news: I have an offer for you." Then: nothing from my end of the line. The dean heard the silence. Being a very canny fellow, he said, "I don't want to hear from you for thirty days. No answer for thirty days. So, you think about it. Get back to me, then, after thirty days—not before." Somehow or other, after thinking and talking about it, my wife and I decided to do it. Thirty days later I told the dean that I would join the faculty. And here I have been for the past forty-five years!

The work I had been doing outside the Law School very much informed what I have done at Yale ever since I arrived here. For example, in my second semester of teaching, in the spring of 1963, inspired or informed by the work I'd been doing at the Taconic Foundation, I offered a seminar on law and philanthropy. It was the first such course in the country, and I have taught and written in that area ever since that time. Meanwhile, my non-Law School involvement in philanthropy was increased by another "time and chance" happening—this time, a very sad one. Audrey and Stephen Currier, flying in a small plane in the Caribbean in 1967, were caught in a sudden tropical storm; the plane went down and was never found. As a result, my wife and I became the guardians of the three young Currier children, and I replaced Stephen Currier as part-time president of the Taconic Foundation. That, in turn, led to further involvement both in civil rights work—Taconic continued to be deeply engaged in that area—and in the foundation world. (I served on the boards of the Council on Foundations and the Foundation Center and various other organizations dealing with philanthropy.) Combining my legal and philanthropic interests, I testified at various congressional hearings, including the 1969 House and Senate hearings on the legislation that changed, for better or for worse (I think for worse), the legal landscape for American foundations.

This involvement in foundation work, coupled with academic work in philanthropy and civil rights activity, was responsible, I think, for George Soros's later invi-

tation to become a trustee of his foundation, the Open Society Institute. In December 2007 I will have completed eleven years on that board and will be required to rotate off under a ten-year rule. (I will have overstayed by a year.) I continue the OSI connection by serving on a new advisory body called the Council. The Open Society Institute service continued several of my trajectories: the philanthropic interest, the civil liberties interest, the civil rights interest.

But now back to the 1960s. The Taconic Foundation's work in civil rights dealt, in part, with school desegregation issues. And that in turn quickened my interest in elementary and secondary education. Which brings me back to the Law School and another instance of "time and chance." I had been asked by Dean Rostow to write a grant proposal to the Ford Foundation for something called "urban law." I wasn't sure what "urban law" was about—indeed, I never have figured that out—but I wrote a proposal, and to my astonishment we got what was then considered a big grant from the Ford Foundation. Well, we wondered, what are we going to do with all that money, since we aren't sure what "urban law" means? My esteemed colleague, the late Alex Bickel, and I sat around one day trying to figure out what course we might offer to give some content to this "urban law" program. We thought of something—I can't remember what it was, but it seemed boring. Then I said, "How about a course on elementary and secondary school law?" Bickel said, "That's it!" Thirty seconds later we decided to offer the course. Surprisingly, it was the first course on that topic in any law school in this country. I've been teaching in that area ever since—for a time with Bickel, the late Charles Black, and Seymour Sarason, then alone, and then with other education lawyers.

That course led to some scholarly activity. I worked on a major research project many years ago with Deborah Stipek, now the dean of the Stanford University School of Education, to examine the rationale for the school-leaving age. Why should kids be released from compulsory schooling at sixteen? Why not at fourteen or, as some would argue, at nineteen or some other age? That plunged us into a bunch of empirical and theoretical topics. We had about thirty collaborators by the time we were through—examining a dozen different effects of schooling and how these effects might be affected by changes in the school "exit age." We had about twenty chapters in draft form, but many of them needed a lot of work. I was so frantic on other fronts that I ran out of time to do anything about these chapters; Deborah Stipek was also short of time, but I was the main truant. So, although we had contracts with two successive publishers, including Yale University Press, this book never got published. If you want to see some of the chapters, I have them at home.

Despite this unfinished symphony, I've continued to be interested in the "exit age" topic, and in elementary and secondary education in general. I continue to teach in that area and to pursue it at the Open Society Institute and at the Taconic Foundation. As a result of my work with Dean Stipek, I became especially interested in what is called "out-of-school time," or OST: preschool years, summer time, and after-

school hours. (I have been encouraged in this direction by the work of Edmund Gordon, an emeritus Yale professor of psychology, who is a leading proponent of doing something about out-of-school time.) The Open Society Institute developed a big after-school education program, and the Baltimore program started a national summer learning program, addressing the well-documented fact that there are serious summer learning losses for disadvantaged kids. At the Taconic Foundation we have been working on both preschool activities and summer school programs. Finally, and more controversially, is the work we're doing here at the Law School on another out-of-school time variation: public boarding schools. (The time spent at boarding school in the evening and on weekends is a form of out-of-school time.) For many kids who have to cope with disruption and upheaval and "oppositional cultures" at home and in their neighborhoods, the boarding school opportunity seems to be the only way out. But there are only a few such schools in the country, and the idea has its doubters and opponents (of whom I am not one!). Four students at the Law School, joined from time to time by one alumnus, a federal judge, have been studying the pros and cons of, and the prospects for, public boarding schools.

Let me now return to some other trajectories. On the nonprofit front, my foundation activity and my law school nonprofit work led Yale's president, Kingman Brewster, to ask me to head up an interdisciplinary research program he wanted to start: a program devoted to empirical and theoretical studies of the nonprofit sector and its economic, social, and political roles. With the early partnership of my current Yale colleague, Henry Hansmann, we launched Yale's Program on Nonprofit Organizations in 1977, the first such research enterprise in this (or any other) country. Lodged in a (decaying) Trumbull Street townhouse, it took off in a rather big way. In the first decade of the program (known by its vaguely cloacal abbreviation, PONPO), we ran or sponsored several score research projects (I've lost count) across the country and in other countries, resulting in a comparable number of books, working papers, and periodical publications. I served as the first director, followed by Paul DiMaggio, Bradford Gray, Peter Dobkin Hall, and Lisa Berliner during PONPO's twenty-five years of full-scale activity. Was PONPO as fruitful as it was prolific? I'm not quite sure, but the program did help to bring about a national (and, later, international) surge in nonprofit academic activity, reflecting the enormous role that the nonprofit sector plays, especially in American life.

Lately, both the nonprofit and the journalism trajectories have come together in connection with a concept I have been exploring: the possibility of organizing the financing of daily newspapers on a nonprofit basis. Daily newspapers are an endangered species, as I mentioned earlier. It occurred to me that the financing of newspapers by people who care about this cause—and are willing to support it with charitable contributions—might keep some of these newspapers alive. Indeed, Yale's late alumnus, the owner of the *New York Herald Tribune*, John Hay Whitney, when he was on the verge of folding down that celebrated but unprofitable paper, thought for

a while that he could save it through philanthropy. He was hoping to put his own money and that of other philanthropists into keeping the paper alive as a nonprofit entity. He was talked out of it by the paper's chief executive, Walter Thayer, who said advertisers would never advertise in a newspaper supported by philanthropy. I think Thayer was wrong, but Whitney took his advice and the *Herald Tribune* died in 1966 (except for the international version, which is now published by the *New York Times* in Europe). There has been further thinking about the nonprofit question, at least at Yale. A law student in my nonprofit organizations course has written what I think is an excellent paper exploring the economic, legal, and other prospects for keeping daily newspapers going on a nonprofit, philanthropic basis. I have sent this paper to a publisher—an unnamed publisher of an unnamed newspaper—who wants to consider this possibility. Let's stay tuned.

Another version of the nonprofit/philanthropy trajectory, which involves several Yale law students and a dozen outside expert volunteers, is the idea—which some people think is very good and other people think is crazy—of organizing prisons on a nonprofit basis. We have the *for-profit* prison industry, which has produced such atrocities as the Corrections Corporation of America and other dubious privatized for-profit prisons. And, of course, there is the *governmental* prison industry—most prisons are run by the government agencies—which is often regarded as excessively constrained by bureaucratic rigidity. The thought was that one might avoid both the for-profit and governmental forms and establish prisons owned and operated on a nonprofit basis under contract with the government. There are several such prisons run for juveniles in Florida and other states, but no nonprofit prisons in America run for adults. So we've assembled a group of people to study the question. Our group has obtained some very modest funding for the study from a foundation, but it will take a lot more funding to crank up the first such prison. And of course we need a state corrections authority to take the plunge and authorize incarceration in such a prison. There is one authority in one unnamed western state that is interested (I don't mean to be secretive about it; they're not ready to go public), but I don't know if this will ever get off the ground. Again, we can all stay tuned.

One other interesting (at least to me!) trajectory that involves both law and philanthropy has become a real movement in the foundation world. It was inspired partly by law teaching at Yale. It is called "program-related investing" (PRI). At one point in discussions with students here, I speculated about whether a board of trustees could authorize a foundation to do high-risk, low-return investing, not justified under conventional "prudent investor" rules, but intended to support for-profit enterprises in poverty areas—for example, inner-city business and low-income housing. We concluded, my law students and I, that there was a legal basis for these investments despite the prudent investor rules. Then, when I became president of the Taconic Foundation, I saw some opportunities for doing this kind of investing; for example, there was a rural co-op in the South, a for-profit enterprise that badly needed

capital. At Taconic, we decided to go forward with the PRI idea. We convened some other foundations and, after a certain amount of deliberation, decided to form a pool of foundation capital to invest in enterprises that would promote economic development or housing in low-income areas. We learned that a marvelous man named Lou Winnick (who died in 2006) had tried to crank up the same idea at the Ford Foundation and was turned down. Winnick and I joined forces to get several foundations to try out this concept, including the Ford Foundation. We created a program-related investment fund called the Cooperative Assistance Fund—which is still going today—to bring foundations together to do PRI work.

Along the way, however—and this goes back to the Law School and my legal work—I had to put on a lawyer's hat to make sure the PRI idea got off the ground. We had to convince several of the foundations that trustees wouldn't violate their fiduciary duty when making low-return, high-risk investments. We managed to reassure most of the doubters. But then we had to convince some nervous Internal Revenue Service personnel that our new fund deserved a tax exemption; they worried about allowing a charitable tax-exempt organization to make what might be regarded as "subsidizing" investments in for-profit businesses. ("What kind of thing is that for a charity to do?") With the help of the Paul, Weiss law firm and its splendid tax partner, Bill DeWind, we sought to persuade the IRS that, as long as the for-profit enterprises being supported were small, the "subsidies" not extravagant, and the activities located in poverty areas, it would be okay. Finally, the commissioner of internal revenue was persuaded and decided to sign his name to a favorable ruling. He did it late on his last day in office—the last day of the Johnson administration—because he worried that his successors in the Nixon administration wouldn't issue such a ruling. That fear turned out to be unjustified; Nixon happened to like what was called the "minority enterprise" approach. In any event, the commissioner signed our ruling, which allowed us to go forward. Then we had a problem in 1969, because, when the Tax Reform Act was about to be enacted, it contained a provision that in effect prevented foundations from making "jeopardizing" (that is, excessively risky) investments. So we had to go to Washington and lobby for a special provision, stating that the jeopardizing-investment rule would not apply to program-related investments. That provision is in the statute now, and two or three hundred foundations have made PRIs.

There's another chapter to this trajectory—an odd kink—involving a kind of cousin of program-related investing. In 1968, a front page article on PRI appeared in the *New York Times*. Two people at Yale, Charles Powers of the Divinity School faculty and a graduate student named Jon Gunnemann, read the article and had a slight misunderstanding. They thought it was about what they had been working on, which is called "ethical investing" (at least, that's the title we gave it later on). Unlike program-related investing, ethical investing is not the making of "high-risk, low-return" investments for purposes of promoting economic development. Instead, ethical investing, in its simplest form, means making conventional investments but do-

ing something about the investments that seem to be violating ethical standards: for example, investments in South Africa during apartheid or investments in companies that pollute the environment. Powers and Gunnemann understandably thought that I was involved in their line of interest and asked me to join in their effort to persuade Yale to adopt ethical investing policies. I told them that I was working on something else. But I did get interested in what they were doing, and in its legal dimensions and some policy aspects. So we decided to offer a Yale interdepartmental seminar on this topic. The seminar enlisted students from five different graduate and professional schools and Yale College, as well as two outstanding economists, Bill Brainard and the late Jim Tobin. At the end of the seminar, Gunnemann, Powers, and I decided to write a book on the subject. Published by Yale University Press, *The Ethical Investor* recommended a set of guidelines for universities confronted with ethical investing issues. With two minor variations, these guidelines were adopted by the Yale Corporation and remain in force today. Sometimes they are even obeyed by Yale! Incidentally, we rejected the tactic of divestment in the book. We argued that divesting isn't the best way to bring about "socially responsible" corporate behavior. In other words, use "voice," not "exit." Vote the stock, scream if you want, but don't just sell the stock. That's not going to be good for your investment portfolio, and it's not going to have much social effect. Yale followed that approach for the first few years (when I and some successors chaired the Advisory Committee on Investor Responsibility), but in some later years the committee decided not to bother with our voice-rather-than-exit policy and did a lot of divesting, particularly with respect to South Africa (which I think was a mistake).

I turn to a final mini-trajectory, or really four of them. They involve foreign philanthropy: the work of foreign charities or the overseas work of American charities.

First, there is the Law School's Nonprofit Organizations Clinic, which I oversee along with two experienced nonprofit law practitioners, Barbara Lindsay and Lisa Davis. (It was started in 1992 and was the first such clinic.) The clinic includes among its pro bono clients (who cannot afford to pay for counsel) many organizations operating abroad; our team of law students has assisted organizations operating in approximately thirty-five countries and engaging in almost every area of nonprofit-sector endeavor. Recently, for example, the clinic has assisted the formation of nonprofits operating, directly or indirectly, in Kenya (HIV/AIDS programs), Congo (microfinance), India (care for quadriplegics), Honduras (women's legal rights), China (secondary education), Botswana (Web presence for nongovernmental organizations), Guatemala (rural cooperatives), Iraq (health program in Iraqi Kurdistan), Chile (new law school), Ghana (microfinance), and Tanzania (start-up businesses). In addition, the clinic has assisted three different worldwide programs (medical care for poor children, human services for Mormon women, advocacy by mothers for "systemic change"), one Asia-wide program (Asian-American university student exchanges), and one Africa-wide program (church mission activity).

A second form of international involvement arose through my work at the Open Society Institute, which operates in sixty countries in a variety of fields, sometimes with dramatic consequences—for example, the jailing of an OSI representative in Iran and the threatened arrest of OSI personnel in Belarus (which caused OSI to close its Belarus office).

The third involvement was prompted by a very sad event: In 1995, our son, Kirby, a Foreign Service officer stationed in Taiwan, succumbed to carbon monoxide poisoning from a faulty nonventilated hot-water heater. My wife, Claire, and I wanted to memorialize him in some way. Because Kirby had been involved in community service activities in his spare time in Taiwan, we decided to set up a fund—a tax-exempt organization—that supports spare-time community service activities by Foreign Service officers, their family members, and Foreign Service nationals at embassies or consulates around the world. Our son's work did not require money, but many such activities do—for example, the purchase of library books, athletic equipment, medical supplies, hot-water heaters, or whatever it may be. The J. Kirby Simon Foreign Service Trust provides that support. It has been operating since 1996. As of the end of 1997 we have given about 515 small grants to support these community service projects in 104 countries, averaging around two thousand dollars per grant.

Finally, under the heading of foreign philanthropy, one other, very recent aspect: a trip to China sponsored by the China Law Center of the Law School. My wife and I went in September 2007 to Beijing, Shanghai, Guangzhou (Canton), and Hong Kong. In the first three of these cities, my assignment was to give talks about U.S. charity and the law relating to it. I wondered about this assignment, because China is quite repressive in its relationship to charities. When last I heard, there were only thirteen of them in the whole country that are officially registered with the government. The government doesn't permit anything that we would regard as exciting philanthropy to take place. You can't start an organization over there that believes in liberating Tibet or ending China's claims on Taiwan, and you'd better not talk too much about environmental activism, not to speak of the plight of rural peasants. And yet there is good deal of interest in expansion of philanthropy and the nonprofit sector among Chinese law students, law faculties, and some citizens—and even (quietly) among some members of the government.

I offered several lectures or seminars in Beijing—at the law school there and in a meeting with some civil servants—as well as at a leading law school in Shanghai and at a meeting of law students in Guangzhou. I had been warned that I should not try to lecture the audiences about what should happen in China. Stay away from that, I was told; they'll resent it. Just say what the United States does, mention its problems (because we do not have an unflawed philanthropic sector in this county), emphasize what we do and what reforms are needed at home, and let the Chinese draw their own conclusions. I obeyed. It was a very interesting experience and I hope that it will help to promote interest in nonprofit activity in China.

Subsequently, the director general of rules and regulations for all of China (his office regulates practically everything) came to Yale to talk about the regulation of charities in both China and the United States. I hope that the day will come (although I do not hold my breath) when he can talk about the deregulation of Chinese nonprofits.

In closing I note, with mild regret, that all these trajectories (plus a good deal of teaching of relatively conventional subjects: contracts, income tax, family law, corporation law, wills and estates) have limited my published scholarship. I've coauthored the book mentioned earlier, authored or coauthored a number of articles and book chapters, and presided over one large and one small scholarly production program, but I've produced far less of my own writing than most of my Law School colleagues. I'm thinking that perhaps, now that I'm in my retirement (although still teaching almost full-time), I'll turn to writing a book or two. "Time and chance" may work in that direction—or they may not. As my late colleague Grant Gilmore wrote many years ago in another context, "Who knows what unlikely resurrection the Easter-tide may bring?"