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11. “Sometimes I wonder how it came to this”: Interview with Deb White, 2005.
11. “I don’t deal with patients the same way anymore”: Interview with a pediatrician in North Carolina, 2005.

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19. Swimming teacher must ask for consent: Interview with one of the author’s daughter’s roommates, 2005.


24. Employee manuals: These prohibited questions are contained in the Human Resources manual of a company the author works with.


25. Unnecessary healthcare spending: See Daniel P. Kessler and Mark B. McClellan, “Do Doctors Practice Defensive Medicine?”, Quarterly Journal of Economics 111, no. 2 (1996), which estimates that 5 to 9% of total healthcare costs can be attributed to defensive medicine. Applied to the United States’ total healthcare spending in 2007, that range would be 115 to 207 billion dollars, or about $2,500 to $4,500 for each uninsured person. Defensive medicine is difficult to measure because of doctors’ mixed motives, among other things. Healthcare providers also make money by ordering tests that are not medically indicated. Defensiveness has become so ingrained in the healthcare culture that some providers have come to believe that tests are essential when they are not. At a Common Good forum, one Swedish doctor said that America had exported defensiveness to Sweden through doctors trained here. See “Administrative


27. “Nothing that’s any good works by itself”: Ibid., p. 169.


30. “belong to a powerful stranger”: Ibid.


30. “makes the moment great”: Emerson, “Experience,” Essays and Lectures, see note to page 17, p. 483.


31. “We all declare for liberty”: Abraham Lincoln, “April 18,


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37. Children’s health vs. extreme care for the terminally ill: Ibid., p. 31.

38. The cost of obesity: Secretary Thompson hosted a weekend retreat in 2002 in which the author participated. For facts on obesity see Lynn C. Swann, “Combatting the Epidemic of Childhood Obesity,” testimony, the Committee on Health, Education, Labor


39. Ralph Nader and the safety movement: Following the publication of Ralph Nader’s Unsafe at Any Speed: The Designed-in Dangers of the American Automobile (New York: Grossman, 1965), activist groups concerned with consumer and safety issues brought about the creation of OSHA, the EPA, the CPSC, and eight major laws aimed at protecting consumers. See David Bollier, Citizen Action and Other Big Ideas: A History of Ralph Nader and the Modern Consumer Movement (Washington, DC: Center for Study of Responsive Law, 1989).


40. “unless designed for your age group”: Chris Kahn, “In the Pursuit of Safety, Teeter-Totters and Swings Are Disappearing,” South Florida Sun-Sentinel, July 18, 2005.


42. National Institute for Play: The website for the National Institute for Play is http://nifplay.org/about_us.html


43. “Early experiences determine which neurons are to be used”: Frost, “The Dissolution of Children's Outdoor Play,” see note to page 41, p. 7.


45. “A nation of wimps”: Hara Estroff Marano, “A nation of


46. “To say ‘no running’”: Robin Bartleman, Broward County, FL, School Board member, “Selected Quotes and Excerpts—On the Need for Play,” http://www.commongood.org/ assets/ attachments/VoP__Selected Quotes and Excerpts.pdf. Bartleman was commenting on the district’s decision to post “Rules of the Playground” (including “‘no running’”) at all 137 Broward elementary schools.

46. Parental Protectiveness: See Johan Huizinga, *Homo Ludens* (Boston: Beacon Press, 1955), in which the author describes the powerful social force of play—deeming a capacity for unobstructed and fun behavior one of the “bases of civilization.”


CHAPTER 3: THE AUTHORITY TO BE FAIR


52. Disorder in a Houston classroom: Interviews with Chris Borrecca and Janet Horton, education lawyers at Bracewell & Guiliani, LLC, in Houston.


52. “It would be unconscionable”: Frahm, “When order and special needs clash,” see note to page 49.

52. Evacuation drills in Houston: Interviews with Chris Borrecca and Janet Horton, 2008.


53 “No novelty”: Tocqueville, *Democracy in America*, see note to page 30, p. 9.


54. “It's unfortunate”: Frahm, “When order and special needs clash,” see note to page 49.

54. “[T]he only purpose”: Mill, On Liberty, see note to page 17, p. 28.


54. “American liberals are great”: Romain Gary, quoted in Barzun, A Stroll with William James, see note to page 47, p. 167.


56. Constant balancing is required: See Berlin, “Two Concepts of Liberty,” see note to page 32. In this essay, Berlin discusses the idea that we must always make choices between “competing goods”.


56. Special education in Denmark: Interview and correspondence with Finn Christensen, Head of Division, Ministry of Education, Denmark, 2008.


60. “‘Balanced’ is a code for ‘denied’”: Ronald Dworkin, “Forked Tongues, Faked Doctrines,” Index on Censorship, March, 1997. Prof. Dworkin made this statement in the context of a discussion on the right to free speech, but the presumption against balancing different interests is inherent in any substantive legal right.


65. “Reason is always”: Ibid., xxvii.


66. Interdependence Day: See the website for Interdependence Day at http://www.civworld.org/day.htm
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70. “[T]here’s not much worse than quadriplegia”: Citation to come.


71. “There is an important question of freedom”: Tomlinson v. Congleton Borough Council, see note to page 15.


73. Result of the lost-pants suit: The case was re-opened a year later, when a panel of three appellate judges agreed to hear the plaintiff’s appeal. See “$54 Million ‘Pants’ Lawsuit Headed Back to Court,” ABC News, September 10, 2008.


73. Obstetricians’ liability problems: In their 2006 “Survey on Professional Liability,” the American College of Obstetricians and Gynecologists found that an average of three claims are brought against each ob-gyn during the course of her career. The majority of these lawsuits are brought by the parents of infants with cerebral palsy, which is caused by negligence less than 10% of the time (American College of Obstetricians and Gynecologists and American Academy of Pediatrics, “Encephalopathy and Cerebral Palsy, Defining the Pathogenesis and Pathophysiology,” January, 2003).

74. Cost of malpractice settlements: Studdert, et. al., “Claims, Errors, and Compensation Payments in Medical Malpractice Litigation,” see note to page 73.

74. “It would be hard to design”: Interview with Michelle Mello, 2008.


75. “Get the Cash You Deserve”: New York City Yellow Pages.


77. Long Beach rip tide awareness campaign: See the Township’s website at [http://www.lbtbp.com/safety/](http://www.lbtbp.com/safety/)


77. “keep us from doing things”: Comment at a roundtable meeting, reported in “Health Care at the Crossroads: Strategies for Improving the Medical Liability System and Preventing Patient Injury,” a whitepaper by the Joint Commission on Accreditation of Healthcare Organizations, 2005.


77. Defensive medicine in nursing homes: M. Bottrell, “Transferring dying nursing home residents to the hospital: DON
perspectives on the nurse’s role in transfer decisions,” *Geriatric Nursing* 22, no. 6.

78. “I used to see a healthy child”: Interview with a North Carolina pediatrician, 2005.

78. “Do I have to sue”: Phone conversation between a mother and the author.

79. “Who am I to judge?”: This exchange between the author and the Judge Robert Scott occurred in 1995, after they appeared together on the *Oprah Winfrey Show*.


84. Dual occurrence of silicosis and asbestosis: In re Silica Products Liability Litigation, see note to page 83, pp. 61-63.

84. The Daubert decision on “junk science”: *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993). The critique of dubious experts was led by Peter Huber, whose book, *Galileo’s Revenge: Junk Science in the Courtroom* (New York: Basic Books, 1993), made the case that letting juries sort through expert advice has led to dramatic miscarriages of justice. See also Walter Olson, *The Rule of Lawyers* (New York: St. Martin’s, 2003), for the story of how one lawyer, John J. O’Quinn, bankrupted several companies on claims related to silicone breast implants, when there was no respectable scientific basis for the claims.

85. “result-oriented,” “Judges are human”: Arthur R. Miller,


86. “not what I believe”: Ibid., p. 89.

86. “creat[ing] law within the framework of the law”: Aharon Barak, *Judicial Discretion* (New Haven, CT: Yale UP, 1989), p. 217. Like Benjamin Cardozo and other philosophers who have addressed rule indeterminacy, Justice Barak argues that judges must draw on their values in order to honor the core principles and goals of the law.


CHAPTER 5: BUREAUCRACY CAN’T TEACH


93. “We have some wonderful, nice kids”: Interview with Heidi Moore, 2007.


97. Most people in the real world”: Interview with Alison Kliegman, 2007.

97. An instructive example of school bureaucracy: In December 2004, a majority of staff in 95 Queens schools voted to censure their superintendent for micromanagement that bordered on abuse. The censure described an “atmosphere that stifles their professional judgment and impedes their ability to provide the safest environment and the best possible education for their students.” “One of the superintendents’ principals had given out stopwatches to ensure that mini-lessons were exactly ten minutes long. Another teacher had written all of the Spanish text in her classroom in blue and all the English text in red; she was ordered to reverse the colors to meet protocol. It was a mountain of stricture—and the opposite of culture.” See Deidre McFayden, “Educators in Region 4: Don’t stop us from teaching our kids,” New York Teacher, January 18, 2005, http://www.uft.org/news/teacher/teaching_kids/


100. “The paperwork overload is out of control”: Ibid, p. 38.
100. “Teachers will spend six hours a day in the classroom”: “Alabama Education Association Executive Secretary Paul Hubbert gets results for the 95,000 members he represents,” interview with Paul Hubbert, Central Alabama Business Journal, at http://www.myaea.org/PressHubbertCAB.html

100. The burden on teachers: The obstacles that keep teachers from meeting their expectations grow constantly. Donald Graves, a leading oral historian of burnout, says “As I’ve traveled around the county the last five years, I’ve noticed increased tension and fatigue in our profession. Teacher judgment is continually bypassed by legislatures, state departments of education, and local administrations who try to micromanage the transactions between teachers and children…Tests are emphasized as ends in themselves rather than as indicators school systems need to consider for new directions…Senseless work in the midst of high pressure is a prescription for significant energy loss, chronic absenteeism, and a discouraged profession.” Donald Graves, The Energy to Teach (Portsmouth, NH: Heinemann, 2001), p. 3. For further discussion on teacher burn-out, see Robert Karasek and Tores Theorell, Healthy Work (New York: Basic Books, 1990).

100. “I have kids”: Futernick, “A Possible Dream,” see note to page 99, pp. 21.
100. “Your hands are tied”: Interview with Debbie Sherlock, 2006.
100. Interruptions to class: “All in a Day’s Work,” Common Good, see note to page 98, p. 16.
101. NCLB bureaucracy: In the words of the National Education Association, NCLB “presents real obstacles to helping students and strengthening public schools” because of a focus on “punishments rather than assistance; rigid, unfunded mandates rather than support for proven practices; bureaucracy and standardized testing rather than teacher-led, classroom focused solutions,” http://www.mstanea.org/teaching_learning/nclb/index.php.
101. “The teacher then came into a meeting”: Interview with Claire Pulignano, 2006.
102. a “pervasive atmosphere”: Interview with Nick Bagley, 2006.
102. 2001 Public Agenda survey: Jean Johnson, Ann Duffett, Tony Foleno, Patrick Foley, and Steve Farkas, “Reality Check 2001,” Public Agenda, http://publicagenda.org/reports/reality-check-2001. In 2006, this question was asked again, this time of students. Results were very similar, with 45% of students reporting that “Teachers spend more time trying to keep order in the classroom than teaching students.”
103. Fighting students fill out a form: Interview with Alison Kliegman, 2007.
103. “There was a teacher here”: Interview with Ryan Hill, 2006.

103. 1956 study on student discipline: Arum, Judging School Discipline, see note to page 96, p. 190.

104. Legal steps required to suspend a student in NYC: “Over Ruled,” Common Good, see note to page 24.


105. “fat ugly asshole,” “he had a plastic cup”: “All in a Day’s Work,” Common Good, see note to page 98, pp. 6-7.


106. Teachers feel that rules discipline them, not students: Grant, The World We Created at Hamilton High, see note to page 105, pp. 162-65 and 225-26.

106. “matters related to grading”: Arum, Judging School Discipline, see note to page 96, p. 27. Arum is referring to Robert Pressman and Susan Weinstein, “Procedural Due Process Rights in Student Discipline: An Update and Revision of the Procedural Due Process Section of School Discipline and Student Rights by Paul Weckstein” (Cambridge, MA: Center for Law and Education). See also Pam Wright and Pete Wright, From Emotions to Advocacy: The Special Education Survival Guide, Second Edition (Hartfield, VA: Harbor House Law Press, 2006). The Wrights advise litigiousness and fear: “If the school is unwilling to resolve problems, ... [y]ou may have to engage in litigation,” p. 48; “If the school says, ‘The law says we cannot do what you ask us to do,’ you need to research the issue independently... Do not rely on legal advice produced by school personnel or articles written by others,” p. 131; “Ultimately, your success in a hearing will depend on the law and facts, the preparedness of the attorneys, and the life experiences of the hearing officer, Administrative Law Judge, or other decision-maker. The pre-existing beliefs and opinions of the decision-maker are more controlling of outcome than the facts and the law,” p. 190.


106. APA report on zero-tolerance: Russell Skiba, Cecil R. Reynolds, Sandra Graham, Peter Sheras, Jane Close Conoley, and


107. New York City Teachers’ Contracts: Contracts are available at the website of the United Federation of Teachers, http://www.uft.org/member/contracts/


110. Study on the effects of good teaching: William L. Sanders and June C. Rivers, “Cumulative and Residual Effects of Teacher on Future Student Academic Achievement,” University of Tennessee Value-Added Research and Assessment Center, November, 1996.


111. “Teaching is the only major occupation”: Drucker, The Age of Discontinuity, p. 338.


111. Mr. Turner and Moby Dick: Ibid., p. 198.
111. “spend a lot of time looking at the teacher,” “the look on a teacher’s face”: Ibid., pp. 29-30.
112. “The way a teacher enters the room”: Ibid., p. 120.
112. Mrs. Walsh and the loudspeaker: Ibid., p. 104.
115. “We’ve got to get away from forcing teachers to conform”: Interview with Jackie Pons, 2005.
116. “being able to pace my presentation”: Futernick, “A Possible Dream,” see note to page 99, p. 29.
116. “We have one boy who will laugh”: Interview with Ryan Hill, 2007.
116. “We change everything all the time”: Interview with Heidi Moore, 2007.
117. “I get things from the district”: Interview with Jackie Pons, 2005.
117. “We have a great deal of freedom”: Futernick, “A Possible Dream,” see note to page 99, p. 29.
117. “Trust is a big part of any vision”: Graves, The Energy to Teach, see note to page 100, p. 157.
118. “In all the schools I visited”: Lightfoot, The Good High School, see note to page 96, p. 345.
118. “It is not punishment that gives discipline its authority”: Durkheim, Moral Education, see note to page 56, p. 167. See generally the discussion in Arum, Judging School Discipline, see note to page 96, pp. 159-188.
118. “Discipline and authority”: Lightfoot, The Good High School, see note to page 96, p. 35.
119. Subjective and objective evaluations of schools: Educators generally believe that they lack the authority to do anything outside of normal protocol. Joe Brown, the principal at Louise A. Spencer elementary school in Newark, NJ, is generally regarded to have brought discipline and respect to a school in a troubled neighborhood. Brown notes “a really important lesson I’ve learned: Kids want you to tell them what to do!...they’re adolescents and they don’t know how to behave.”
120. “The most important thing [she] communicate[s]”: Jackson, The Moral Life of Schools, see note to page 111, p. 115.
120. “Too many places look to packaged programs”: Graves, The Energy to Teach, see note to page 100, p. 157.
120. “The very process of asking teachers about their schools”: Futernick, “A Possible Dream,” see note to page 99, p. 54.
120. “on the totally erroneous assumption”: Drucker, The Essential Drucker, see note to page 116, p. 221.
121. Culture “may be progressive for a certain length of time”: Mill, On Liberty, see note to page 17, p. 136.
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122. “We had a teacher here”: Interview with Ryan Hill, 2008.
123. “Men are neither good nor bad”: Barnard, The Functions of the Executive, see note to page 14, p. 218.
123. Teachers can be “kind or cruel”: Jackson, The Moral Life of Schools, see note to page 111, p. 173.
123. Workplace success a question of fit: Drucker, The Essential Drucker, see note to page 116, p. 222.
124. “Basically whether you perform well or your perform poorly, you were treated the same”: Joel Klein, interview by Hendrick Smith, Making Schools Work, PBS, http://www.pbs.org/makingschoolswork/dwr/ny/klein.html
126. Most decisions are made by people on the ground: Barnard, The Functions of the Executive, see note to page 14, p. 232.
127. Dismissing a teacher in New York: “Over Ruled,” Common Good, see note to page 24. This and other charts are available at http://commongood.org/burden-of-law.html
128. Fairness in educational employment situations: One Queens teacher described a union rep who was “the school’s least caring educator”: “They’ve been annoying me all day long,” she’d carp to teachers about her students—right in front of her class. She scolded any teachers who went the extra mile, arguing that they made those other teachers who did the bare minimum “look bad.”


129. “Mediocrity is not a sin”: Interview with Jerry Wartgow, 2006.


132. Civil Rights Act not meant to give affirmative rights: Hubert Humphrey wrote, “If [anyone] can find in Title VII... any language which provide[s] that an employer will have to hire on the basis of percentage or quota related to color, race, religion, or national origin, I will start eating the pages one after another, because it is not there,” Congressional Record 110, no. 7420 (1964).


Plaintiffs Fare in Federal Court,” 1 Journal of Empirical Legal Studies 2 (July, 2004).

133. Protected categories: Federal law protects people from being fired or penalized based on race, color, religion, sex, or national origin (Title VII, Civil Rights Act of 1964); age (Age Discrimination in Employment Act of 1967); or disabilities (Title I and Title V of Americans with Disabilities Act of 1990). The wording of these laws does not cover only minorities or groups traditionally discriminated against but could also be used, for instance, on behalf of a man fired by a firm made up entirely of women. Most discrimination cases, however, are brought by women, minorities, older, and disabled persons, which together make up approximately 75% of the population (estimation based on numbers from the U.S. census bureau at http://censtats.census.gov/).


136. “It was like somebody turned on the lights”: Interview with Paul Burkhalter, 2006.


137. “It’s very frustrating to high performers not to be held accountable”: Interview with Susan Schaeffler, 2007.

137. “a human being was an atom of self-interest”: Hofstadter, The American Political Tradition and the Men who Made It, see note to page 66, p. 3.


138. A plaintiff weeps: Discussion with a retired federal judge.

138. Failure is the norm: Barnard, *The Functions of the Executive*, see note to page 14, p. 5.


139. “In democracies men are never stationary”: Tocqueville, *Democracy in America*, vol. 2, see note to page 31, p. 223.


140. “What are you going to do... shun them?”: Panel discussion with Professor Arthur Miller, among others, at The Landmark Auditorium, Richmond, VA, 1995. See Anthony Kronman, *The Lost Lawyer: Failing Ideas of the Legal Profession* (Cambridge, MA: Harvard UP, 1993) for a discussion of the decline of the idea that lawyers are statesmen and scholars.

141. Job security in Europe: Thomas Sowell writes that “Job security laws do not secure jobs. Their net effect is to redistribute the insecurity,” and argues that this is why job creation has been consistently higher in the United States than in Europe, in “Bedroom Economics in Germany,” *Capitalism*, February 7, 2005.


142. “Legally, we can't speak”: Paul D. Snitzer and Lisa W. Clark, “Speak no evil is a risky policy,” *Modern Healthcare*, December 5, 2005.


144. “imagine they communicate their virtue”: Emerson, “Self Reliance,” see note to page 17, p. 266.


147. “Even a dog... distinguishes”: Holmes, *The Common Law*, see note to page 85, p. 3.

148. People are “astonishingly unlike each other”: Tocqueville, *Democracy in America*, vol. 2, see note to page 31, p. 228.


CHAPTER 7: RESPONSIBILITY IN WASHINGTON


152. No Child Left Behind: The No Child Left Behind Act, see note to page 98.


154. “It used to take a few months”: Interview with Peter Lehner, 2008.

155. “one directional words”: Hummel, The Bureaucratic Experience, see note to page 150, p. 163.


156. “Bureaucracy develops the more perfectly”: Ibid., p. 975.

157. “How do the trial lawyers feel about it?”: Interview with a congressman, whom the author prefers not to identify.

157. Meeting at the White House: Interview with a senior White House official, whom the author prefers not to identify.


159. “We used to fight hard in the campaigns”: Discussion with Howard Baker, 2003.


160. Trial lawyers’ contributions to political campaigns: “The Association of Trial Lawyers of America... routinely ranks among the top five PACs in federal campaign donations, leaning strongly to Democrats. In 2002, ATLA was the third most generous PAC, contributing $2.8 million; 89% of that money went to Democrats, making ATLA the largest PAC contributor to the Democratic party..." Through individual and soft money contributions, as well as PAC donations, the lawsuit industry has surpassed all others in political giving in every electoral cycle since 1990... All told, the litigation industry has contributed a staggering $470 million to federal campaigns since 1990,” from “The Best Friends Money Can Buy: Trial Lawyers, Inc. floods the political process with cash,” Trial Lawyers, Inc.: A Report on the Lawsuit Industry in America, 2003, http://www.triallawyersinc.com/html/part10.html. This data comes from the Center for Responsive Politics, Top PACs for 2001-2002, http://www.opensecrets.org/pacs/index.asp and “Lawyers/Law Firms: Long-Term Contribution Trends,” http://www.opensecrets.org/industries/indus.asp.

161. “Many interest groups would rather push their point of view and lose”: Discussion with Rod DeArment, 2007.


162. “I received 128 letters from members of Congress”: Interview with Joe Dear, 2007.


164. “Our concern must be for a special interest group that has been too long neglected”: Ronald Reagan, First Inaugural Speech, delivered January 20, 1981 in Washington, quoted in Peter Schweizer and Wynton C. Hall, Landmark Speeches of the American Conservative Movement (College Station, TX: Texas A&M UP, 2007), p. 75.


164. “I know that facing up to these interests will require courage”: William J. Clinton, State of the Union Address, delivered January 25, 1994, in State of the Union Addresses (Montana: Kessinger, 2004), p. 11.


165. “A little rebellion now and then is a good thing”: Jefferson to Isaac H. Tiffany, see note to page 32, p. 108.


165. “We had no rules”: Interview with Charles Peters, 2008.


165. Mere “directions,” “the immeasurable multitude of particular facts”: Hayek, Law, Legislation and Liberty, see note to page 32, p. 130.

166. “Our system for managing”: Kelman, Procurement and Public Management, see note to page 155, p. 52.


168. “At every stage of the governmental hierarchy”: Hayek, The Constitution of Liberty, see note to page 137, p. 213.


169. OSHA and the home builders association: Interview with Joe Dear, 2008.


171. The judge “is not a knight-errant”: Cardozo, The Nature of the Judicial Process, see note to page 86, p. 141.


171. Reducing bureaucracy in Washington: See Richard Foster and Sarah Kaplan, Creative Destruction (New York: Currency, 2001), which makes an eloquent case for destroying the system. Foster and Kaplan discuss the “cultural lock-in” and argue that we can only prevent decline if we innovate constantly and search for weaknesses in our strengths.

173. “Congress will never be able to bring all these pieces together”: Interview with a healthcare industry executive who asked not to be named.


175. Restoring New York’s Central Park: Two leaders instrumental in rebuilding Central Park were Betsy Barlow Rogers and the philanthropist Richard Gilder. See the website for the Central Park Conservancy, http://www.centralparknyc.org/site/PageNavigator/aboutcon_cpc.


176. “the vast mass of juristic writings,” “mania for juristic...


CHAPTER 8: THE FREEDOM TO MAKE A DIFFERENCE

178. “Who would guarantee that these judges weren’t in the doctors’ pockets”: Author’s discussion with journalist friend in Los Angeles, 2002.


185. “any true introspection”: Ibid., p. 231.


185. Human variability: See Hubert and Stuart Dreyfus, *Mind Over Machine* (New York: The Free Press, 1986), for the argument that knowledge cannot be engineered. The authors believe that decisions are made during the moments when there exist “a cluster of potential actions, [and] a space of and for evolving events,” p. 105. These are moments when intuition is needed.


185. “If man were forced to demonstrate”: Tocqueville, *Democracy in America*, vol. 2, see note to page 31, p. 8.
186. “Good and bad are but names”: Emerson, “Self Reliance,” see note to page 17, p. 262. See Antonio Damasio, Descartes’ Error (New York; Avon Books, 1994) for a argument that humans who lack emotional and social input can’t make good decisions.

186. “When I was growing up”: Interview with Joe Tanner, 2006.

186. Lawyers as aristocrats: Zakaria, Future of Freedom, see note to page 170, p. 222.


188. “Wherever and whenever one person is found adequate”: George Washington, The Quotable George Washington, see note to page 59, p. 16.


189. “We may also say of Lincoln”: Needleman, The American Soul, see note to page 66, p. 18.

189. “Effective leadership”: Barnard, The Functions of the Executive, see note to page 14, p. xxxi.


189. “The force of character is cumulative”: Emerson, “Self-Reliance,” see note to page 17, p. 266.

189. “speak[s] from his character”: Emerson, “The Over-Soul,” see note to page 17, p. 386.


190. Americans unhappy with the litigious culture: Two thirds of Americans believe we need fundamental changes in our civil justice system (“Public Attitudes toward the Civil Justice System,” see note to page 75). 93% of those polled in a 2001 survey said that they think people are too quick to sue. That same poll found that nearly 9 of 10 people believe there are too many frivolous lawsuits, and 7 of 10 believe that the large number of suits is evidence that our society is breaking down. See Stephen S. Meinhold and David W. Neubauer, “Exploring Attitudes About the Litigation Explosion,” 22 Justice System Journal 105, 108 (2001).

190. “The modern mind”: Michael Polanyi, Personal Knowledge, see note to page 183, p. 228.


192. “centralized administration is fit only to enervate”: Tocqueville, Democracy in America, vol. 1, see note to page 31, p. 87.

192. “Municipal institutions constitute the strength of free nations”: Tocqueville, Democracy in America, vol. 1, p. 61.

192. “The centralization, the immobility”: Hugh Trevor-Roper, introduction to Decline and Fall of the Roman Empire, see note to page 173, p. xci.


193. Subsidiarity: For an overview on the concept of subsidiarity, see Andreas Føllesdal, “Subsidiarity,” Journal of Political Philosophy 6, no 2 (December 16, 2002); Theodor Schilling, “Subsidiarity


194. “Life is... non-standard”: Václav Havel, “New Year’s Address to the Nation,” see note to page 135.


195. “there is less reason to guide and to check impulse”: Niebuhr, *Moral Man and Immoral Society*, see note to page 65, p. xxv.

195. “Once ‘active virtue’ is lost”: Trevor-Roper, introduction to *Decline and Fall of the Roman Empire*, see note to page 173, p. xciv.


197. “Plants don’t flourish”: Ibid., p. 19.


198. “no leaders and no followers”: Ibid., p. 97.


199. “The more miserable a man is, the more he dreads”: Kropotkin, *Anarchism*, see note to page 156, p. 104.

199. Machiavelli on reform: “There is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order, this lukewarmness arising ...partly from the incredulity of mankind, who do not truly believe in anything new until they have actual experience of it,” Niccolo Machiavelli, *The Prince*, Luigi Ricci, trans. (New York: Signet Classic, 1999), pp. 49-50.