“Can we all get along?”
The Best Columns and Podcasts from LEVICK 2021
Including interviews with more than 250 thought leaders
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Foreword by Richard Levick

“Can we all get along?”

“I was lyin’ with my mess-mates on the cold and rocky ground
When across the lines of battle came a most peculiar sound
Says I “Now listen up me boys”, each soldier strained to hear
As one young German voice sang out so clear
“He’s singin’ bloody well you know”, my partner says to me
Soon one by one each German voice joined in in harmony
The cannons rested silent. The gas cloud rolled no more
As Christmas brought us respite from the war
As soon as they were finished a reverent pause was spent
‘God rest ye merry, gentlemen’ struck up some lads from Kent
The next they sang was ‘Stille Nacht’. “Tis ‘Silent Night’” says I
And in two tongues one song filled up that sky"

— John McCutcheon’s song Christmas in the Trenches about the World War I Christmas Soccer Truce on the Western Front

Although I never voted for him, one of the things I always admired about President Ronald Reagan was that he never took his suit jacket off in the Oval Office. He had too much respect for the institution and its symbols. I have never been much of a rule follower myself. Growing up in the shadow of the anti-Vietnam War protests and living in Washington, DC when Woodward and Bernstein were first writing about a break-in at the Watergate, I had a tangled relationship with authority. It turns out that symbols, manners, kindness and soft power — mean something. In fact, they mean more than something. They are the glue of civilizations.

I have always been a change advocate, working for Ralph Nader organizations as a first career decades before environmental and conservation measures were “cool.” But with something gained is always something lost. I remember the family-owned convenience stores in the 1970s asking how they could safely and cleanly store returnable bottles if the government was going to mandate them. Long before the era of superstores, it was a concern that could mean the difference between profit and loss for these local businesses. Today, as much as I like the idea of electric cars, I worry about the 85% of electric cars in Asia powered by dirty coal from China and the new minerals war shaping up over cobalt. It will not end well for the Congolese who will either do the mining under harsh conditions or be forced to move off their ancestral land with little or no consideration. At the risk of repetition, for everything gained, something is lost.

I think this is one of the reasons the late Archbishop Desmond Tutu and President Nelson Mandela sought change “via media” — the Latin phrase meaning “the middle road.” It is an aphorism for life which advocates moderation in all thoughts and actions. As Aristotle wrote, “moderation is the essence of wisdom.”

2021 started with the violent January 6th insurrection — nothing short of a presidential coup — and has ended with Covid-19 fatigue. We are fighting over masks and vaccines for heaven’s sake. The conversation is about individual liberties when it should be about shared responsibilities.

It seems we have all taken our jackets off when really, we should be doing the exact opposite. Fully stopping at stop signs, being kind to our neighbors, opening doors for strangers, listening before speaking or judging. Simply because the internet gives us newfound power of publication and amplification does not mean we should.

The late Harry Reid grew up without indoor plumbing and an alcoholic, violent and suicidal father. He would grow up to serve 12 years as one of the longest tenured
Senate Majority Leaders. In America, everything could still be possible. It is a remarkable experiment in self-rule and well worth our dedication.

In late December 1890, 300 peaceful and cooperative Lakota men, women and children were gunned down with three mountain guns — the precursor to the machine gun — at the Massacre at Wounded Knee. 131 years later we still live with the shame of this tragedy committed by hung-over members of the Seventh Calvary seeking revenge for the death of General George Armstrong Custer 14 years earlier. This road to the extremes does not lead us where we want to go.

Via media. We need to find the middle way or be condemned to replace one injustice with another.

Peaceful process may be boring, make few headlines and be slow and plodding, but it is also the magic of long-lived societies.

Over the following pages you will read essays about the news of the day for the past year and find links to more than one hundred of 2021’s most popular podcasts we hosted for the Corporate Counsel Business Journal, sharing views on dozens of issues from all points of view. Hopefully they are helpful and instructive. Some may even be inspiring.

Maybe 2022 can be the beginning of our own “Christmas soccer truce,” practiced for more than one day. Imagine.

“Manners are of more importance than laws. Upon them in a great measure, the Law depends. The Law touches us but here and there, and now and then. Matters are what vex or sooth, corrupt or purify, exalt or debase, barbarize or refine us, by a constant, steady, uniform, insensible operation, like that of the air we breathe in. They give their while form and color to our lives. According to their quality, they aid morals, they supply them, or they totally destroy them.”

— Edmund Burke

Richard S. Levick, Esq.
Chairman & CEO

December 31, 2021
A New Year’s Resolution

“Drop the last year into the silent limbo of the past. Let it go, for it was imperfect, and thank God that it can go.”

— Justin Brooks Atkinson

Upon his death in 1984, the New York Times wrote of Justin Brooks Atkinson, where he had worked from 1922 until 1960, that he was “the theater’s most influential reviewer of his time.” I wonder what he would have written about the “show” that was 2020?

He did write that, “In every age ‘the good old days’ were a myth. No one ever thought they were good at the time. For every age has consisted of crises that seemed intolerable to the people who lived through them.” He wrote through the Great Depression, World War II and the McCarthy Era, so he lived through no shortage of trials and tribulations.

I know one of the things I have been thinking a lot about lately has been the perseverance of our parents, grandparents and great grandparents. When my father was a child during the Great Depression, his parents couldn’t afford to repair the holes in the soles of his shoes, so he stuffed them with newspapers. Those aren’t just stories anymore. They’re beacons. Who ever thought we would walk in those shoes?

The Greatest Generation learned many lessons, not the least was the extraordinary power of collective action. Marching, as it was, in the same direction. To say we have lost that theology is an understatement. To get from here to there, to take advantage of the returning optimism, requires that we listen, learn and let go of our certainty. Or, as Mr. Atkinson wrote, “The most fatal illusion is the narrow point of view. Since life is growth and motion, a fixed point of view kills anybody who has one.” Seems like a perfect New Year’s resolution.

Richard Levick
How to Stop the Madness

“From Andrew Jackson to Richard Nixon, we have seen presidents abuse their power, but we had never witnessed an American president incite a violent mob on the citadel of our democracy in a desperate attempt to cling to power.”

— Representative David Cicilline of Rhode Island

IN MEMORIAM: This week’s essay is dedicated to Capitol Police Officers Brian Sicknick, who was killed in Wednesday’s siege of the United States Capitol, and Howard “Howie” Liebengood, who took his own life over the weekend.

The single article of impeachment, co-authored by Reps. David Cicilline (RI), Ted Lieu (CA) and Jamie Raskin (MD), states that President Donald Trump engaged in high crimes and misdemeanors by “willfully inciting violence against the Government of the United States.” I keep reading that sentence and — wherever you stand politically or if you have never so much as picked up a history book — is language we never, ever imagined we would read.

Shortly after I started writing this Monday morning at 6:00, a helicopter flew over my home, which is just off of 16th Street in Washington, DC, and consequential because it is at the DC-Maryland border. Helicopters are not permitted to hover over Washington DC, so the airspace over our otherwise tranquil neighborhood is prime space for news and military helicopters that want unobstructed views of the Capitol during demonstrations. During the summer, when the peaceful #BlackLivesMatter protests occurred, they hovered and hovered MASH-like for days, deep into the following mornings. On Wednesday, January 6th, a day that will live in infamy, the skies were virtually empty. With apologies to singer songwriter John Gorka, the “presence of their absence” was deafening.
There is no perfect political solution to our current dilemma. Censure might pass and, though serious, is the mildest of rebukes. The 25th Amendment has promise due to its relative speed, but requires a timorous Vice President Pence to do what is unthinkable for him. Impeachment is powerful but late, long and divisive. And, of course, it isn’t just the President who has gone off the rails. One hundred and forty-seven Republican Senators and House Members voted not to certify the election of Joe Biden after the attack on the Capitol.

What were they thinking? Playing with fire before the house burns down is at least vaguely understandable — but afterwards?

The fastest way to a politician's soul is through their wallet. Even before the armed and organized mob seized the Capitol, one publication — the investigative Popular Information — had figured that out.

Starve the beast.

When I was asked to write a column last Wednesday night — with the Capitol still reeling from the assault, leaving broken glass, graffiti, stolen artifacts and feces in its wake, and the death of a Capitol Police officer not yet reported — my first thought was how this political tragedy would quickly morph to a boardroom concern. And it has.

Led by Blue Cross Blue Shield and Marriott and followed by JP Morgan, Citi, Dow Chemical, American Express, the PGA of America, Twitter, Facebook and dozens more, corporations across America are announcing limitations on political donations, access to their platforms and cancellation of high-profile events. As I mentioned to CNN last night, this shift is historic. As the country and the GOP cleave, it is anything but leadership to punish both parties and believe it will be well received by history let alone tomorrow. Already, the powerfully effective Lincoln Project is preparing to “out” corporations who continue to fund the “the 147.”

A pox on both your houses is not an effective strategy.

This was not a protest that broke into a riot. As is clear by the planning, sophisticated weaponry and shocking videos of brutality against law enforcement and the hunting down of politicians, this was an army of mutineers that paused for a protest.

“I’m a firm supporter of the First Amendment. This was none of that. This was criminal riotous activity.”

— Resigning Capitol Police Chief Steven Sund

Richard Levick

For years, one of the things you noticed about the streets of London was the absence of trash receptacles. It wasn’t because Londoners had deeper empty pockets to haul their personal refuse; instead, it stood as a safety feature, a remnant of The Troubles — the three-decade conflict between nationalists and unionists in Northern Ireland. Trash cans on every street corner were just too rich a target for incendiary devices. It’s how a world capital adjusts to guerrilla war.

We’ve had no shortage of tense moments in our lifetimes — the tumultuous moments during the Civil Rights, anti-Vietnam War and #BLM movements, to name a few. But the events of January 6th are different. The nation’s citadel — aided and abetted by the President of the United States with complicity by more than a few Members of Congress — has been attacked, like Sherman’s march on Atlanta in reverse. And this time, the Confederate flag flew.

The aftermath looks like Camelot when, with all but four of his 100 knights of the roundtable perished or disappeared, King Arthur wonders aloud if the pursuit of the Holy Grail was worth it. There was, of course, nothing holy in the acts of the past months, despite the fact that more than a few Members of Congress and some members of the media tried to normalize them.

George Washington insisted on many things, not the least of which were uniforms for his troops when he was general of the Continental Army and a self-imposed limitation of years in office when he was President, because he adroitly understood the importance of soft power. Norms matter.
I’ve often thought that President Washington, with his years of active military service, concern for others, belief in democracy not monarchy, humility and extraordinary financial and personal sacrifice — he only got three years in retirement on his beloved Mount Vernon estate with Martha after serving two full terms — was the polar opposite of Donald Trump.

What happens after the bright line of January 6th? How do companies handle their political contributions, CSR, ESG, DEI, advertising and other branding concerns at a time when they have increasingly become the “fifth estate” — a governor on the government?

There is, of course, an historic fissure in the Republican Party akin to the 1850s with the dissolution of the Whigs, with traditional conservatives trying to win back control of the party. It makes for a fluid situation but one where corporations have and are stepping into the lurch, trying to provide much needed stability. In speaking with corporate executives, intelligence operatives, journalists, Republican veterans and other thought leaders, this is how we read the tea leaves.

The insurgency of January 6th will move to guerrilla tactics. Conduct a vulnerability assessment. Where are you geographically exposed? What politicians has the company contributed to? Where are you advertising? What have your supply-chain providers done in the political arena?

Anticipate more violence. We may be at the nadir, but we are not past the disruption of the insurgency. Even if isolated, plan for more shocking events and make your hard business decisions accordingly.

Plan for transparency. The question is not if but when critics will discover your political spending (even formally opaque 527 contributions), private events and even, possibly, your private conversations. Eliminate wishful thinking about opacity and plan for transparency.

Look forward to what you do next. In speaking with NGOs who will be engaging in critical advertising and public relations campaigns against corporate PACs right after the inauguration, they expressed that they are focusing on what companies do next, not nearly as much as what companies have done in the past. That’s almost as good as a get-out-of-jail-free card. Now is the time to make changes — consider freezing or disbanding your PAC; claw back donations or limit or end funding to anyone who opposes the peaceful transition of power, as 20 of the 30 largest corporate contributors have already done. At the very least, announce a pause to give the company time to decide how to move forward.

Draw the line between PAC funding and other activities your company engages in and commit the differences to messaging now. Some companies fear criticism even if they have little or no exposed PAC funding. It might be a supplier, a partner, the personal political contributions of an executive or other activity. If a journalist or NGO calls, you won’t have much time to distinguish the difference if you haven’t given it considerable thought now. A great example is how Charles Schwab handled this.

Take a second look at past funding. While most criticism will be about political contributions going forward, there is one caveat. If your PAC funded one or more of the 147 Republican members of Congress who refused to certify the election or the 16 Republican Attorneys General who wrote amicus curiae briefs in opposition to the certification, watch what they are doing now. If they remain outspoken in refusing to support the democratic process, you will need to do more to separate yourself. Powerful social critics can’t go after every company; they will choose to focus on the companies that empower the most outspoken critics of democracy.

Companies don’t need to be the first out with powerful statements, but they can’t be the last. Not every company has to act with the speed, courage and clarity of Marriott, Blue Cross Blue Shield or Hallmark, but they do need to act at some point to minimize themselves as a target.

You can no longer separate your DEI commitments from your PAC support. The insurgency was made up of large numbers of white supremacists — a modern-day KKK. You cannot talk about your diversity, equity and inclusion initiatives and still fund certification deniers (a synonym for minority disenfranchisement). It is now a bright line.

Support for the insurgency is shrinking. While there will be talk of 74 million people voting for Donald Trump and by extension, thereby supporting all that has been done in his name, support has dramatically waned since January 6th. You are now talking about approximately 30% job approval for Donald Trump, or about 10% of the country. It is no small number, but it puts things in context, especially when you are trying to read the future.
Leave the First Amendment — speech, assembly and religion — and Second Amendment — the right to bear arms — arguments up to the courts. This wasn’t a protest that broke into a riot but an insurrection that cleverly used a protest to execute a violent attack in broad daylight.

Review the platforms you use including social media and advertising. It is not a leap to think that, in the near future, muscular social critics will go after major advertisers on Fox, Sinclair, Newsmax and OAN — if those media don’t distinguish themselves from support for the insurrection. Already, an effort by Open MIC is using shareholder resolutions to call on Home Depot and Omnicom Group to investigate whether their advertising is funding platforms that spread inappropriate content. 

Expect this to expand.

Track social media and look at rising trends to see if you are becoming a target. It’s not just big data but the human intelligence that looks at social media trends. Have people who understand business, politics and social movements study your daily tracking to predict the future.

Over-communicate to employees. Employees need your leadership now more than ever. There will also be more employee activism in the coming years than any time since the days of powerful unions. The more you lay out a vision and communicate with authenticity the more you invest in a peaceful future.

And what about us, the individual? What do we do?

Maimonides, a renowned 12th century Jewish scholar wrote that the world was perfectly balanced between good and evil and that each person should consider themselves perfectly balanced between the two. The next action we do, however trivial, can tilt us and the whole world toward one or the other.

One of my favorite examples of this is listening to any conversations with Peggy Wallace Kennedy, the daughter of notorious former Alabama governor and segregationist George Wallace. She has dedicated her life to fighting for civil rights and talks about her friendships with civil rights leaders, such as Rep. John Lewis, who helped her find her voice and set her free.

Nineteenth century author Anne Brontë — an early advocate for women’s authorship and what today we would call a bestseller, was dying of tuberculosis at age 29 — the third of her siblings to die of the dreaded disease. Quite literally, with her dying breath, she turned to her remaining sister Charlotte, and whispered, “Take courage.” It’s the best advice I can give.

Richard Levick
GameStop: The Buck Starts Here

Since June 16, 2015, when Donald Trump took the golden escalator ride at Trump Tower to announce his candidacy, the news media dramatically reduced covering business stories. Who could blame them? Donald Trump was a daily headline machine.

Obviously, it wasn’t that there were no business stories in the news media, it’s just that none of them — save for Boeing and Volkswagen (and Carlos Ghosn’s “great escape”) — had legs. Name another crisis business story since 2015 that got more than a week’s worth of continuous national or international media coverage?

That all changed on January 11th, when Barron’s first reported on GameStop. Since then, we have been talking about short sellers, the short squeezes, margin calls, the CBOE Volatility Index and more. Welcome back to business-news-as-(almost)-usual. Of course, major media will spend extraordinary resources covering the second Senate impeachment trial of Donald Trump and the post-presidency investigations, the Biden Administration’s first 100 days and the challenge of the GOP to reclaim its center-right position — Washington, DC is Hollywood on the Potomac, after all — but business stories are back in vogue.

One of the advantages for businesses over the past half decade has been that if there were an embarrassing crisis, it wouldn’t get the constant reportage that the BP oil spill or the AIG financial crisis got — over a half-year in both cases, including the “gavel-to-gavel” coverage that CNN gave BP with hours-long special programming. This year will never be like 2009 and 2010, but it does mean the era of the long shadow is over.

Combine that with the increase in regulatory review of a new Administration and Congress, and its time, once again, to think differently. To help companies do that, we ran a number of podcasts this week, looking forward. Pick a topic and take a listen:
Former Maryland Attorney General and former President of the National Association of Attorneys General Doug Gansler, now a partner at Cadwalader and head of their State Attorneys General practice, on likely regulatory priorities of the new Administration.

The First 100 Days with longtime Washington insider and prominent Democratic strategist Manny Ortiz of VantageKnight.

What’s a conversation about what’s next in Washington without a look at the CFPB? Take a listen to Stephen Ornstein, co-leader of the Alston & Bird CFPB team, discussing the CFPB’s new “Seasoned Qualified Mortgage” Rule.

What the SEC Might Do Under a Biden Administration Regarding Climate Change Disclosure Rules with Anthony Alden, Matt Hosen and Michael Liftik, Chair of Quinn Emanuel’s SEC Enforcement practice.

Tax policy changes under the Biden Administration with Mike Sanders, lead partner at Blank Rome’s Washington, D.C. office tax group.

And a look at next week’s Senate impeachment trial with Ambassador Norm Eisen, former counsel for the Democrats on the House Judiciary Committee on the first impeachment of former President Donald J. Trump.

It’s a new day in Washington and in newsrooms. Caveat venditor and carpe diem. “Sellers beware” and “seize the day.”

Enjoy the listens.

Richard Levick
The Day the Music Died

On Saturday morning I was thinking about “The day the music died,” Don McLean’s line from “American Pie.” Although I knew the meaning and remember the song well going back to the moment it was released in 1971 (at a shocking length of eight-plus minutes, no less!), I just had to look it up on the Google machine. There are, after all, so many references in the song — some we are still reflecting on a half-century later. Was it really Bob Dylan who was “the jester who sang for the king and queen in a coat he borrowed from James Dean”?

February 3rd, 1959, the day Buddy Holly, Ritchie Valens and “The Big Bopper,” J. P. Richardson, died in a small plane crash. Coincidentally or miraculously, later Saturday evening, when I turned on the television for the first time in a week, there it was — La Bamba, the Ritchie Valens story, a movie I hadn’t watched since its release in 1987. I teared up again at the end and this time wondered, how much richer would our lives be with 60 more years of their music? Certainly, Ritchie had more to tell us than the near gospel “Donna” and Buddy seemed to envisage the future with “Rave On.”

The chances of a plane crash in the United States are about one in 11 million, yet our lives and the direction of our nation have been inexorably changed by those that occurred and those that did not. September 11, 2001, changed everything. As World War I changed our global politics for more than a century (triggered, in part, by an errant chauffeur driving Archduke Franz Ferdinand), we have been litigating 9/11 in one form or another — from the heart to the court room, from battlegrounds to ballot boxes — for two decades. Our sense of national and personal vulnerability did not originate that day, but it passes through it. The accrescent power of planes landing safely and those that don’t resonate with us daily.

In the fall of 1963, Beatlemania was raging in Britain and increasingly throughout Europe, but not the United States. Ed Sullivan, on an unrelated talent scouting tour of Europe, is rushing to his plane at Heathrow and totally by chance, witnesses the absolute pandemonium — John, Paul, George and Ringo returning from a hugely successful tour of Sweden. By accident, the “British Invasion” is born. Just a few months later, on February 7, 1964, Pan Am Yankee Clipper flight 101 from London Heathrow lands at New York’s
Kennedy Airport with, as Sullivan shouted a few nights later, “The Beatles!” Ten thousand hours and months in Hamburg all made it possible, but good fortune made it happen.

I’ll never forget the conversation I had in law school with a veteran of the Carter White House who was relaying the pervasive sense of mourning on April 24, 1980, when news came that three of eight helicopters had failed in the desert, and one retreating helicopter had collided into the C-130 transport plane. It killed eight service members and with it, the Iran hostage rescue mission and the Carter presidency.

Months later, less than a year into the new Reagan Administration, a confident President fired the 11,000 Professional Air Traffic Controllers Organization (PATCO) workers illegally striking and replaced them with arguably less qualified air traffic controllers. A single domestic plane crash during that period, regardless of the reason, and there is no “Reagan Revolution.”

Flash forward 20 years and there are the entirely avoidable mistakes a charter pilot and co-pilot made approaching landing, killing Minnesota Senator Paul Wellstone, his wife and daughter and five others just before a close election that would turn over control of the U.S. Senate to Republicans in 2002. If not for the crash, Trent Lott may not become majority leader and American politics, for the last generation, are drastically different.

History is fickle. Life and the course of nations take unexpected leaps from moments that expand like an ink blot on a pale carpet.

The best and worst things that have ever happened in my life seem to have largely been dependent upon the serendipity of who I am sitting next to. The significant career opportunity, the major new client, the relationship that went sour, the bad hire or the great one. I don’t mean that hard work and perseverance aren’t incredibly important parts of life, only that luck, both good and bad, plays an outsized role.

What happens if we had a chance to do those meetings and moments all over again? Or, lacking a time machine, we had the ability to get them right going forward?

Over the past week, we have had three podcasts with authors (two releasing new books) and change agents who speak about how we take control of some of these moments; how active listening helps turn challenging moments into winning ones; how we build common sense and empowered decision-making into our organizations; how we can sharpen our empathy by truly communicating and confronting with kindness and understanding; and how we can lean more deeply into relationships across races and sexes from their perspective, not just our own.

How much of our litigation, business battles, HR struggles, tribalism and unrest would be different if these moments were altered before the ink was spilled? It is these small, human moments that lead to all the other things in our lives.

The Ministry of Common Sense
Best selling author Martin Lindstrom discusses his new book, The Ministry of Common Sense: How to Eliminate Bureaucratic Red Tape, Bad Excuses and Corporate BS. Martin Lindstrom is a well-known international management consultant who has worked with many of the world’s leading brands, helping them pinpoint and eliminate bothersome hurdles that harm efficiency, customer and employee relations.

Listen here

The Soft Business Skills Are the Hardest
David Bradford Ph.D. and Carole Robin Ph.D. discuss their new book, Connect: Building Exceptional Relationships with Family, Friends, and Colleagues. It turns out that the soft skills of business are the hardest. How do we get better at them, especially in an environment when fear and judgement are the dominant emotions? Curious is the antidote to judgement.

Listen here

The Unique Challenges of Black Women
Christelyn Karazin, author, YouTube personality, social influencer and host of The Pink Pill, speaks with co-hosts Richard Levick and Dr. George T. French, Jr., President of Clark Atlanta University, about the unique business and personal issues that Black women face.

Read about the podcast

“Drove my Chevy to the levee but the levee was dry.”

Happy listening and enjoy the moment. They won’t come again.

Richard Levick
The Price of Courage

“Courage is the most important of all the virtues because without courage, you can’t practice any other virtue consistently.”
— Maya Angelou

What is the arc of history if courage had been absent?

No “one small step for man, one giant leap for mankind.” No Declaration of Independence — also known as treason and a “death warrant” for its 56 signatories had the rebellion failed, which, by rights, it should have.

No 1964 Civil Rights Act and 1965 Voting Rights Act if the late John Lewis, Reverend Hosea Williams, Bob Mants and Albert Turner don’t lead the Selma-to-Montgomery march across the Edmund Pettus Bridge. No 19th Amendment and women’s suffrage if Susan B. Anthony, Alice Paul, Elizabeth Cady Stanton, Lucy Stone and Ida B. Wells don’t endure incalculable hardship. And where would we be on gay rights if not for Marsha Johnson, the outspoken advocate for gay rights and a prominent leader in the Stonewall uprising of 1969?

And under the klieg lights? What if Joseph Welch hadn’t said to unhinged Senator Joseph McCarthy during the Army-McCarthy hearings, “Have you no sense of decency, sir?”

How did Galileo Galilei feel when Rome brought charges of heresy against him for his accurate belief that the earth was not the center of the universe, let alone the center of the solar system?

What is the loneliness we feel when compelled to do or say things we know to be fundamentally wrong? In the age of instant polling, doxing and cancel culture, it is easy to pile on and declare allegiance to the popular, not the righteous.
Doing the right thing always feels so expensive because the cost is right up front. Going along and piling on is always easier because there is no down payment; the real cost is mortgaged. But like any mortgage, we end up paying and paying.

These issues came to the fore again this week when I spoke with Andrew McCabe, former Acting Director of the FBI, about the threat of domestic right-wing terrorism, the power of symbolism and the role of corporations in a divided America. Mr. McCabe, of course, became Acting Director of the FBI following James Comey’s dismissal by then-President Donald Trump.

To put things in perspective, I also interviewed historian, author and professor Matt Dallek, of George Washington University’s Graduate School of Political Management and a frequent contributor to the opinion pages of the Washington Post. We discussed today’s parallels to the 1950s, when a far-right fringe threatened to take over the GOP and how centrist Republicans, business interests, NGOs, the military, the White House and others worked to retain control of the party.

As Mark Twain wrote, “History doesn’t repeat itself, but it often rhymes.”

Be courageous and seize the day.

Richard Levick

Listen to A Conversation with Andrew McCabe

Listen to Forcing Out the Fringe with Matt Dallek
The Regulatory Hall of Fame

“I think that we all do heroic things, but hero is not a noun, it’s a verb.”
— Robert Downey, Jr.

Over the past few weeks, we have had podcast conversations with the likes of former Congresswoman Elizabeth Holtzman, who, among other things, co-authored with Senator Ted Kennedy the Refugee Act of 1980, and co-founded the Congressional Caucus for Women’s Issues; Andrew McCabe, former Acting Director of the FBI, who stood up to both threats from domestic right-wing terrorism and an ungrateful President; and this week, Brandon Van Grack, who served first as lead counsel on what would become the Mueller investigation and then as Chief of the DOJ’s Foreign Agents Registration Act (FARA). He is now a partner and co-chair of Morrison & Foerster’s National Security and Global Risk & Crisis Management groups, where he took the time to have an extended conversation on the daily podcast we host for the Corporate Counsel Business Journal, In House Warrior.

It may not be “Tinker to Evers to Chance,” the artful infield of shortstop Joe Tinker, second baseman Johnny Evers and first baseman Frank Chance, who helped the Chicago Cubs win four National League championships and two World Series between 1906 and 1910, but these three and others certainly belong in any Regulatory Hall of Fame, should Cooperstown want company.

For any law, lobbying, public relations or financial firm — domestic or foreign — which hasn’t yet had internal conversations with counsel and updated their compliance regarding foreign influence work that touches the U.S., today would be the day. FARA has expanded mightily since it was passed in World War II as part of the Roosevelt Administration’s effort to inhibit Axis influence in the U.S. and continues to get more muscular, particularly under the leadership of Mr. Van Grack.
No longer is influence just limited to lobbying, nor is it defined as Capitol Hill-centric. Influence is also not limited to just U.S. firms. If you are involved in trying to influence the body politic in the United States, even if you are based overseas or are a subcontractor, it’s a new day. Don’t become a test case of the expanding power of the law’s dragnet.

We’ve been representing nation-states and assisting foreign businesses in Washington for more than 20 years. It is among the highest calling of any client work in our industry. To have a seat at the table with world leaders allows for extraordinary results — often quickly. There’s nothing more gratifying than seeing the recommendations you made that morning reported as law that afternoon on CNN.

But it also requires a level of transparency and compliance that other work just does not demand. In today’s high stakes environment, it also means you are going to become part of the story, at least for a day in normal work. For the most sensitive matters, it means that you may also find yourself the target of harsh criticism, or worse. Death threats and armed guards have, unfortunately, become part of the work.

Foreign influence work isn’t going to stop, nor should it. But the way we do it has permanently changed.

The most important thing you can do with your clients is to let them know today’s rules and what’s going to happen next. Transparency with regulators is a given, but so is transparency with your clients. It’s just one more thing to let clients know you understand how Washington works.

Enjoy the listen.

Richard Levick
The Final Episode of M*A*S*H

Almost 38 years ago to the day, CBS aired the final episode of M*A*S*H, a two-and-a-half-hour episode which was, as we used to say, appointment television. Long before the days of VCRs, America made it a point to be home in front of their televisions to hear for the last time that “Suicide was painless, it brings on many changes” over the whup, whup, whup of whirling helicopter blades.

Seventy-seven percent of the television viewing audience, which is to say, almost everyone in America, was glued to the screen. Since it was also long before the ubiquity of personal computers and mobile phones, we watched together, on our couches and in our living rooms. Not unlike Ed Sullivan and the Beatles, the moon landing and the Rumble in the Jungle, America and the world were transfixed by a singular common event.

Years before, at the end of season three, M*A*S*H’s producer Larry Gelbart had set the stage for tempestuous television. Tell me you didn’t shed a tear — or more — when Radar O’Reilly reported that “Lt. Col. Henry Blake’s plane was shot down over the Sea of Japan [East Sea]. There were no survivors.”

It was classic M*A*S*H. Unexpected and seemingly “unnecessary” tragedy amid a comedy, but absolutely necessary to remind us that war inflicts brutality. It was not far removed from the Vietnam GI death counts that haunted the nightly news during the first few years of the show. Comedy may be “tragedy plus time” as Steve Allen said, but tragedy is tragedy magnified when it is most unexpected.

What was remarkable about M*A*S*H was exactly that. It managed to weave genres; you weren’t sure if you were watching drama, tragedy, comedy or even a protest song in 3-D. It even spawned a new term “dramedy.” M*A*S*H was a lifetime of emotions in 30 minutes.

Set at a surgical hospital — M*A*S*H 4077 — near Seoul, South Korea and taking place during the Korean War, it was, of course, really a thinly-veiled stand-in for the Vietnam War, which was at the time tearing America apart.
But for 30 minutes each week and 150 on February 28, 1983, it salved those wounds. It became a beacon during a challenging decade. Somehow Hawkeye, Trapper John, Radar O’Reilly, Nurse Houlihan, Lt. Col. Henry Blake, Corporal Max Klinger, Father Mulcahy and Frank Burns would help us figure it out with laughter among the tears. They were our Aesop’s Fables with life lessons slipped in amid the ruins.

We kept coming back, for eleven seasons, from childhood through our first jobs, to see if they could somehow guide us through the challenges of the 1970s and early ‘80s. And then to say goodbye, as three-quarters of a nation did four decades ago.

When was the last time so many of us came together on anything?

How can we come back together as a nation? Who are our emergency surgeons who will put us back together today? More than the significant divide is how we have institutionalized our differences with gerrymandered districts that reward political division; cable contracts that enrich networks that propagate opinion parading as news; endless, divisive campaigns; and a dis-functioning Washington?

Supermen or Superwomen insiders or outsiders won’t save us. But our institutions will.

This week, we launched two new weekly programs running on our In House Warrior flagship podcast in partnership with the Corporate Counsel Business Journal: Real Washington, with my co-host Michael Zeldin, a CNN Legal Contributor, and Great Governance, with my co-host Greg Ballew, Executive Director of the Institute for Excellence in Corporate Governance at the University of Texas at Dallas. We interviewed three thought leaders, in executive power, electoral reform and corporate leadership.

Joe Lockhart, partner at Rationale 360 and the former White House Press Secretary to President Bill Clinton and former press secretary to Walter Mondale, Paul Simon and Michael Dukakis, to discuss the new Biden Administration, corporate political activity, the NFL and more.

Katherine Gehl, a veteran of the public and private sector and the former president and CEO of Gehl Goods, a $250-million high-tech food manufacturing company, and founder of The Institute for Political Innovation, a nonpartisan nonprofit founded in 2020 to catalyze modern political change in America. She is the co-author with Professor Michael E. Porter of Harvard Business School of The Politics Industry: How Political Innovation Can Break Partisan Gridlock and Save our Democracy. She spoke about the Politics Industry Theory, “Final Five Voting” and how we can innovate to inspire and save a functioning democracy that is bursting at the seams.

Don Springer, Chairman of the Colton Group and a veteran of multiple international and domestic technology and service company boards, discussing the transition from shareholders to stakeholders. Don weighs in on issues ranging from ESG and DEI to the historic evolution of the role of boards.

There are some terrific insights here by remarkable leaders. Enjoy the programs. And let’s hope that something — anything — brings us together like the *whup, whup, whup* of those M*A*S*H helicopter blades.

Enjoy the listens.

Richard Levick

Listen to Real Washington with Joe Lockhart
Listen to Great Governance with Don Springer
Listen to In House Warrior with Katherine Gehl

“Can we all get along?”
“‘Siehst du?’ in German, ‘Do you get the picture?’ in English, and ‘Tu vois?’ in French are more often than not metaphors that ask about understanding rather than vision. Across a broad range of human cultures, the visual sense has risen to such a position of prominence that to envision often means to understand.”

— Michael Paesler

We were a *Life* family, receiving the stunning photojournalism magazine each week for years. You didn’t so much turn the pages as see the world’s mysteries unfold.

In an age with only three television networks and a nascent local station on a fuzzy black & white television (eventually replaced with a color set that was furniture-sized and became the epicenter of most living rooms) you enthusiastically embraced anything that let you see the world. *Life Magazine* was one of the few windows to the universe, along with Chicago’s WGN-AM 50,000-watt superstation, which you could receive hundreds of miles away with the combination of a clear night and a surgeon’s touch on the dial. If you were lucky enough to subscribe, once a year, the *World Book* from Encyclopedia Britannica made you feel like you were a part of the Jet Age spawning the Space Age. I can still hear the spine cracking on that textured white and green cover.

We knew the universe was big and growing bigger, but our access was miniscule. No cable television, no satellite radio, no Internet. When the television flashed “Breaking News” you stopped, because it meant Dwight D. Eisenhower had died, Martin Luther King had been assassinated or Virgil Grissom, Edward White and Roger Chaffee had died on the launchpad fire in the Apollo I capsule.
Life Magazine wouldn’t come and go like a newspaper. It would linger at your home like a work of art, a coffee table book that said with its closeup covers that you were sophisticated. You wanted to see the world.

Yet, after all these years, the cover I remember best is the late 1960s cover not of Life but of Look Magazine. It is the one that celebrated “Black Beauty” at a time when a new generation of Civil Rights leaders were transforming its identity from Negro to Black and with it, no longer trying to conform to White social standards.

Look didn’t try and explain the transformation, it showed you: Here is Black Beauty. I can still see her face on the cover, over 50 years later. I wasn’t more than ten, but it touched my soul. That was the power of Look.

Look Magazine, as it turned out, wasn’t the poorer cousin to Life, as so many of us thought, but a magazine that stands alone, not only compared to Life, but compared to the more serious news magazine of its time or any other.

Heroic and courageous in its coverage, Look Magazine changed America far more than we understood at the time. It covered birth control in the late 1930s, a full quarter century before the sexual revolution. It called out the first “White nationalism” 75 years before the phrase became more commonplace. It hired the first full-time African-American journalist long before other predominantly White publications did. Its pages were where baseball superstar Jackie Robinson chose to announce his retirement. It was where Norman Rockwell went to draw iconic and powerful imagery about the Vietnam War and the Civil Rights movement after spending years drawing safe “Americana” covers for the Saturday Evening Post.

Rockwell’s transformation was classic — to look at a Rockwell is as safe as apple pie. If Norman Rockwell was drawing it, it shattered our defenses without even being conscious of it — and forced us to look at the world with fresh eyes.

If Life let you see the world through the eyes of photojournalists, Look let you see the world through the eyes of the subjects.

This past week we interviewed Andrew Yarrow on The Influencers, the weekly podcast I co-host with Dr. George T. French, Jr., President of Clark Atlanta University. Andrew’s forthcoming book is a retrospective of the enduring power and influence of Look Magazine.

Also, this week on The Influencers, we interviewed David Casey, the Vice President of Workforce Strategies and Chief Diversity Officer for CVS Health, on the challenges and leadership required to effectively distribute Covid-19 vaccines to African American, Black and Latino communities.

On Real Washington, the weekly program I co-host with Michael Zeldin, the radio and television commentator and host of That Said with Michael Zeldin on CommPRO, we interviewed prolific Princeton historian Julian Zelizer—who is working on his 20th book and is a pioneer in the revival of American political history. We take a look at the filibuster (used almost entirely during its 100-year history to perpetuate Jim Crow bigotry), President Biden’s first 100 days, the 2022 election and the alleged wisdom of crowds.

Enjoy the listens and remember to see the world through the eyes of others. To see is to understand.

Richard Levick

Read about the podcast: The Challenges of Covid Vaccine Distribution To Minority Communities
Read about the podcast: How Look Magazine Changed America
Listen to History’s Lessons for 2021
Everyone Gets Disrupted

“And you tell me, over and over and over again, my friend, saying you don’t believe we’re on the eve of destruction.”

— Barry McGuire

What would have happened if Jack Kerouac hadn’t broken his leg at Columbia University while on football scholarship? Would he have met poet Allen Ginsberg or writer William Burroughs? Would they have started writing short stories and poetry? Would Kerouac have written *On the Road*? Would the Beat Generation have existed without it? And without the Beat Generation, would there have been the Hippies, the countercultural movement which led to, among other things, societal acceptance of the natural (now organic and local) food movement, gay marriage, single parenthood, and a love of the environment?

Progress, it seems, is never a straight line. Failure is often the first price of success.

By the time I was 13 or 14, with a growing political awareness based on the counterculture sandwiched between political assassinations (John, Martin and Bobby), American apartheid, the war in Vietnam, the nascent environmental and women’s movements, one song among many played like an anthem for a generation — Barry McGuire’s *Eve of Destruction*.

We were going to save the world. But we know how that turned out. The Great Society brought us the expectations of entitlements; the environmental movement, a saturated recycling market and an approach to conservation that is often more about greenwashing than solutions, while climate change bares down on us; the antiwar movement ended the draft but harmed our sense of collective sacrifice for country; and Watergate reforms and open primaries have, in part, led to a 24-hour news cycle and endless campaigning, just to
name a few. None of us, no matter how well intended, will be preserved from the criticism of future generations.

And through it all, especially after this past year, optimism is returning. The dark days of the pandemic, while not eviscerated, are waning; the nadir appears passed and the future seems, if not promising, hopeful. The human spirit endures.

I was struck by this sense of hope when I was interviewing Jay Samit, the former Independent Vice Chairman of Deloitte, an American digital media innovator, serial entrepreneur and bestselling author of the book *Disrupt You*. He famously said, “There are two types of people: those who look for opportunity and those who make it.” He spoke to me on *In House Warrior*, the daily podcast of the *Corporate Counsel Business Journal* about anticipating and preparing for change; how being dyslexic helps him see the world differently; and how powerful positive thinking can be in changing the world around us. What struck me most about the interview was his sober optimism. Change is painful, but to be changed is empowering.

On *Real Washington*, the weekly program I co-host with Michael Zeldin, TV and radio commentator and host of *That Said with Michael Zeldin* on CommPRO, we spoke with former Congressman Charlie Dent (R), who represented suburban Philadelphia for seven terms. He is the kind of politician we always imagined in grade school — called to service, thoughtful, open-minded, country above party. He spoke about the newly-passed stimulus, the filibuster, infrastructure and the future of the GOP. Among other things, Mr. Dent is now a Senior Policy Advisor at DLA and the head of Congressional Programs at the Aspen Institute.

On another broadcast of *In House Warrior*, I spoke with Patricia Harned, Ph.D. and CEO of the Ethics & Compliance Initiative (ECI), about the evolving world of ethics and compliance. She spoke about the importance of strong corporate cultures, the race to retaliation in some countries, trends in ethics and compliance, the importance of purpose and the findings of their recently released study, *The State of Ethics & Compliance in the Workplace: A Look at Global Trends*.

And finally, on *Garage to Global* — co-hosted with Louis Lehot, a partner at Foley & Lardner — we spoke with highly regarded early-stage investor Ben Narasin, a Venture Partner at NEA, a global venture capital firm whose mission is “to make the world better by helping founders build great companies that improve the way we live, work and play.” Ben, who successfully spotted trends leading him to make seed investments in companies such as Dropcam, Lending Club, TellApart, Kabbage and Zenefits, discusses what moves him to invest and why he is looking for “founders who make me say wow.” Pitch Ben at [https://pitch-ben.com/](https://pitch-ben.com/).

Hope springs eternal.

Richard Levick

*Listen to Best Selling Author Jay Samit, former Independent Vice Chairman of Deloitte*

*Listen to A Word With Former Congressman Charlie Dent*

*Listen to The Evolving World of Ethics and Compliance with Patricia Harned*

*Listen to Pitch Your Startup with Ben Narasin, Venture Partner at NEA*
“I Never Felt as Unsafe as I Did That Day”

“Poetry is typically the touchstone that we go back to when we have to remind ourselves of the history that we stand on, and the future that we stand for.”

— Amanda Gorman

Some of the best nights with my late grandparents were when we would ask them how they managed to get through the world without access to automobiles or telephones. And later, as we matriculated through high school, how they survived the Great Depression or World War II. “With newspaper in the soles of my shoes,” my father would tell me, of his childhood memories. “Collectively,” my grandmother would say. “We just came together and helped each other.”

And now it is our turn. Our offspring ask us how we could possibly have survived without laptops and mobile phones. (“Easily” I might respond, as my grandparents did to me, puzzled by the severity of the question.) But how will we answer how we survived the twenty-year period between 9/11, the Great Recession and Covid-19? “Collectively,” is how I would like to answer — but we all know that isn’t entirely true.

Imagining fear, real fear, like imagining the future death of a loved one, is impossible to project. We can grasp it intellectually, but not emotionally. Unless we are there, in the thick of a grip so heavy we don’t even realize the burden which blinds us. God may watch over us, but what happens if She took her eyes off us for just a moment?

No doubt our early childhood experiences form us, but the Internet has the remarkable sorcery to return us to our formative years, unable to separate fact from fiction, the program...
from the commercials. It would be nice to refer to radicalized zealots — such as those that stormed the Capitol on January 6th — as “not right,” but the thing that is so frightening is how many of them went in under a year from puppy photos to radical chat rooms and, for some, destructive and violent action. Fear is a powerful emotion.

This past week, on Real Washington — the weekly program on In House Warrior carried by the Corporate Counsel Business Journal which I co-host with Michael Zeldin — we had powerful conversations with Brian Karem, White House correspondent for Playboy, a political analyst for CNN and a contributor to Bulwark, who has been covering Washington for 40 years and covered two wars on the ground. Of the January insurrection he said, “I never felt as unsafe as I did that day.” Crowds shouted to him, “You’re the media and you’re going to die.” And they meant it.

Brian’s new book, out this fall, is Free the Press: the Death of American Journalism and How to Revive It.

On the podcast The Innovators — the weekly program I co-host with Clark Atlanta University President Dr. George T. French, Jr. — we interviewed Bethany Henderson, CEO of DC Scores and President of America Scores, an 11-city charity affiliated with Major League Soccer, and DeAndre Walters, a Morehouse College freshman, winner of poetry jams and a DC Scores alumnus. We had DeAndre on another program less than six months ago, and yet I was struck by how much he had grown emotionally in such a short period. Already an accomplished poet, his deep introspection leads to a captivating charm that only makes his poetry more powerful. Six months ago, he was part of the show; this past week, he was the star. When he read his poem “Ode to Those Who Don’t Understand,” he helps you understand fear; suddenly you can see it through another person’s eyes. And seeing the world through another person’s eyes, isn’t that the key to acting collectively?

Ode to Those Who Don’t Understand

They tell me I write well, my language is exquisite but I stick too much to struggle stories
Funny cuz my life is full of struggle
Built on misery and stories of pain,
dreams turned into nightmares,
along with hopes of fame.
Living in glory, lost and gained.
Memories of yesterday, fall like rain.

I was born inna environment where fire meets ice
I was born into the streetlights
Populated corner store, lit up by the backwash grey overtone of broken streetlights
So many memories, dim nights, street fights brung to light by street lights
Glock shots have made my brothers take flight like flying kites
I’m stuck inna timberland society
stomped down upon like the ground I walk on
I done seen n words get shot cuz they n words while being called n words by the same people that descend from people who used to whip n words
I come from a place that knows nothing of neighborhood watches,
We had really killers who dropped out of college and majored in home invasion
Long nights starving for their next break
Real bulldogs who miss school just to make a flip down to do whatever it takes
See I was born into struggle
If Dora was my color she wouldn’t be able to explore nun without getting pulled over or shot down by a cop
If my little pony was as black as me there wouldn’t be no glitter or gold at the end the rainbow just a jail cell with a hard cold bench and a puddle in the corner which you don’t know whether it’s water or pee
So unless you been pulled over at 8 am in the morning for walking done street
Unless you feel like your just rental car and your every minute is a daily fee
Don’t talk to me about my struggle stories
Cuz this life is my book and I swear its full of struggle
I’m born into this life and it may never change
But this is the life that we deal with everyday and yet you think your oppression hurts those who’ve lived in oppression they whole life
This is a ode to those who don’t know nun bout what I have to go through every night

Enjoy the programs.

Richard Levick

Listen to You’re the Media and You’re Going to Die — Real Washington with White House Correspondent Brian Karem

Read about the podcast: Soccer Poet Laureate — How America Scores Changes Youths Through Soccer and Poetry
Standing In Awe

“Well, now, everything dies, baby, that’s a fact
But maybe everything that dies someday comes back.”

— Bruce Springsteen

Almost a year ago, I buried the remains of Timmy, one of my cats, in the tiny orchard on the corner of my property, where he loved to sun. This spring, the little gravesite is covered by Baby’s Breath; the yard is a blanket of Butter Cups and Early Snow Glories, flowers that until now, had been occasional visitors but certainly never amounted to a sea in the first spring breezes as they do now. Timmy, like his stepsister, were rescues, adopted with feline leukemia, so they always had short life expectancies — “three to five years” was the best guess. Timmy made it to seven and his sister, two years younger, is still going strong.

Likely, my personal Flanders Field is the result of winds and birds carrying the seeds from neighboring Rock Creek National Park, but it is nice to think that love and energy never die. Or, as the Dalai Lama says, “Ah, death, a change of clothes.” We just keep transforming.

Are we allowed to? Keep transforming, I mean. It seems these days, we are so often shamed or worse for something we once said or thought or maybe even did. Forgiveness is in short supply, but judgment is contagious, like Kurt Vonnegut’s Ice 9, which turned water to a solid. There was no off-switch; if you put Ice 9 into a glass of water, you had a pretty cool parlor trick. But drop it in the ocean, as happened at the end of the novel, Cat’s Cradle, and, well, you could walk from New York to Beijing as long, of course, as you didn’t get thirsty along the way.

I don’t have any answers, other than patience and a divining rod. Look into the actor’s heart. Judge them the way we judge ourselves, or as Stephen M.R. Covey says, “We judge ourselves by our intentions, we judge others by their actions.” If your idea of justice is to play “gotcha” you will always win — that is, until you look honestly into a mirror. Due process, a statute of limitations, punishments that fit the crime and intent. They all matter.
Remember Charlie
Remember Baker
They left their childhood
On every acre
And who was wrong?
And who was right?
It didn’t matter in the thick of the fight

Over the weekend I was listening to Billy Joel’s “Good Night Saigon” and I couldn’t get that line out of my head. The one about Charlie and Baker. I haven’t been able to in the nearly 40 years since its release. I am pretty sure the mythical Charlie and Baker and the 58,220 real American casualties of the Vietnam War didn’t die to protect judgment.

Or James Earl Chaney, Andrew Goodman and Michael Schwerner, the three Congress of Racial Equality (CORE) field workers killed in Philadelphia, Mississippi, by members of the Ku Klux Klan in 1964. Or Shifa Gardi, the reporter for the Kurdish channel Rudaw, killed in Iraq by a roadside bomb, who had broken the “stereotypes of male-dominated journalism.” Or Ruth Alicia López Guisao, who worked with the indigenous people of Medio San Juan on food security, health and education projects until she was murdered in 2017. Or Sherly Montoya, killed for fighting for LGBT rights in Tegucigalpa, Honduras. Free speech and criticism are at the core of what they lived and died for. I’m not thinking that a society so thick with judgment that it feels like prior restraint is what they had in mind.

There is hatred in our culture and fear and scarcity in what should be a time of plenty. Each generation does the best it can. Ours fought for peace, started the environmental, women’s rights and LGBT movements, and initiated a new fight for civil rights that resulted in the most significant landmark legislation in a century. We even elected a president — Jimmy Carter — on a platform of Human Rights. It failed, or languished, because it occurred “before its time.” But we tried.

In the end it wasn’t enough but we did our best and had a generation that shared wealth and opportunity far better than we do now. The reward has been trite phrases and headlines such as “Hey, Boomer” and “Toxic masculinity.”

A generation is a very big thing; no one of us is in control, except for ourselves. Judge us for our totality, not our worst moments. And remember the law of unintended consequences. Do we really want the future — here before you are ready — to judge us as harshly as we do the past?

We humans are complex, fitting into stereotypes only for the convenience of our critics and our fans. As Tennessee Williams wrote, “If I got rid of my demons, I’d lose my angels.”

During the week, I had two particularly fascinating podcasts with leaders who have fought the good fight and did so by listening, crossing the aisle and championing hope. I interviewed Dr. Raphael Bostic, the first African American President of the Federal Reserve Bank of Atlanta on The Innovators, the weekly podcast I co-host with Dr. George T. French, Jr., President of Clark Atlanta University, about inflation, monetary policy, wealth disparity and making the economy work for everyone.

I also spoke with Charles Foster, Chairman of Foster, LLP, in Houston for the daily podcast, In House Warrior I host for the Corporate Counsel Business Journal. He served as the immigration policy campaign advisor to both President George W. Bush and President Barack Obama, about the history and politics of and solutions for immigration. Stay tuned for the insightful moment when Mr. Foster says, “The challenges of immigration are greatly exaggerated for political purposes.”

I have no doubt we can do remarkable things, but with love, not anger. I started with Springsteen so let’s end with God (not that long a leap, according to some), as interpreted in the Midrash, “My children, have I deprived you in any way? What do I want from you? I only ask that you should love each other and treat one another with dignity and stand in awe of each other.”

Let’s stand in awe together.

Richard Levick

Read about the podcast: The View From the Federal Reserve
Listen to A Presidential Campaign Advisor to Both Republicans and Democrats on Immigration
“Our private sector must stop taking cues from the Outrage-Industrial Complex...From election law to environmentalism to radical social agendas to the Second Amendment, parts of the private sector keep dabbling in behaving like a woke parallel government.”

— Senator Mitch McConnell (R- KY)

The gauntlet has been thrown.

How do companies maximize shareholder value while minimizing brand risk at a time when a generation demands that brands stand for something while at the same time GOP leaders just announced that “woke” companies are the issue they can win on in 2022. How do we lead?

Brand neutrality is dead. Since the murder of George Floyd and the insurrection of January 6th, everything is different. There is “no middle ground” as Merck CEO Ken Frazier and former American Express CEO Ken Chenault have forcefully articulated. Companies may not want to be pulled into politics because it’s not a winning proposition — but they also cannot avoid it.
Like Missourians caught between the Union and the Irregulars during the Civil War, we’ve become ensnared by the battle.

**The Arc of History**

In 2010, after *Citizens United*, we wrote that the unintended consequences of the Supreme Court’s split decision to find First Amendment rights in corporations also meant that companies would have First Amendment responsibilities. Going forward, companies would be judged not just for their brands but for their political activity. The Court majority’s assumption that independent spending would be transparent first proved to be incorrect, but is lately becoming a transparency albatross for companies. Public Citizen just identified the corporations that collectively spent $50 million funding candidates supporting voter restrictions. *Popular Information* — with their two-person staff — has been doing such a remarkable job tracing the issue of corporate PAC funding since before January 6th that the traditional media follows them. For the past two years, the *Center for Political Accountability* has been making formerly opaque 527 contributions public. If you fund them, you now own the consequences.

Political contributions have become the new supply chain liability. But so is your DEI, environmental footprint, labor practices and more. Like it or not, corporations may not be the new “woke parallel government” but they are judged by the company they keep and the things they do outside of what they sell.

Last winter, when the federal government failed to act to prevent the growing Covid crisis from devastating America, we wrote that crisis abhors a vacuum and that if the federal government would not act at the start of a national crisis then others would. We saw the NBA, state governors and pharmaceutical companies, to name a few, fill the void like so many boats at Dunkirk. While the Covid infection invasion is the most remarkable example, it comes after more than a quarter-century of a largely ineffective federal government. Constituents look to other venues to fill the abyss. Now, it is common practice for Americans to look to the courts, state governments, athletes and corporations for leadership. Government cannot abandon its federal responsibilities — either out of laissez-faire faith or partisan gridlock — or others will fill the chasm.

Historically, power has conveyed back and forth between Washington and Wall Street. When the federal government doesn’t act, corporations do. And when the government acts, corporations go back to the business of business. In 1907, J.P. Morgan locked the leading bankers in the library of his Madison Avenue home; overnight they developed the Federal Reserve to get the American economy back on track. On the other hand, during FDR’s Administration, Assistant Attorney General for Antitrust, the soon-to-be-great Robert H. Jackson, remade antitrust law in 18 months. He would declare: “We cannot permit private corporations to be private governments. We must keep our economic system under the control of the people who live by and under it.”

This country has — understandably — been tussling over the proper role of government since FDR and Jackson’s New Deal. But the terms of the debate have been flip-flopped: now, it’s the controversy surrounding the proper role of private companies that has been ramped up beyond all recognition.

Milton Friedman’s truism, that “a firm’s sole responsibility is to its shareholders,” may have once been true, but how can you reconcile that to an age when brand neutrality is dead — and younger consumers expect their brands to have purpose?

**Georgia On My Mind**

The Georgia corporate community’s uneven handling of the state’s new voter suppression law is instructive — and a cautionary tale about just how complicated the new rules are. Big Atlanta-based companies like Coca-Cola and Delta weighed in against the bill as debate got underway in the statehouse.

Delta’s CEO Ed Bastian’s memo on the issue went public with a now-famous (infamous?) quote: “The legislation signed this week improved considerably during the legislative process, and expands weekend voting, codifies Sunday voting and protects a voter’s ability to cast an absentee ballot without providing a reason.”

All of this is true, but unfortunately, when a company weighs in on a controversial matter, it owns it in the public eye; suddenly, Delta was seen as supporting voter suppression efforts, including criminalizing the handing-out of water to someone standing in line to vote. Within days, Major League Baseball — no NBA — would take the 2021 MLB All-Star Game away from Atlanta and make it clear to politicians in Texas, Arizona, Florida and Washington, D.C. that North Carolina’s experience in 2016, losing an estimated $3.6 billion in revenue — after it passed a law limiting legal protections for LGBT people — is the new calculus. At a remarkable speed and despite Minority Leader McConnell’s comments to the contrary, we saw the white flag waived
by Arkansas’ Governor Asa Hutchinson (R) on the first business day thereafter when he vetoed a ban on gender-affirming medical care for transgender youths. He called it a “vast government overreach” but really it was a “nothing to see here” moment. Corporate activism, when unified, is an incredibly powerful form of democracy in action.

The New Rules

How does a company walk the tightrope that looks more like a Gordian knot? Here are a few rules to get you started:

1. **With apologies to Rod Serling, you have entered the perception zone.** The first casualty of war is truth; on high-tension issues such as universal suffrage, truth is not going to be a defense. The Georgia law is complex; in some ways, it extends voting hours and access, and in others, clearly targets traditional Democratic strongholds. If your company is going to weigh in on a highly controversial issue, make sure your team is interdisciplinary. If just your public affairs or legal executives are looking at it, they will miss perception issues the way your brand and communications professionals alone would miss legal issues. Silos are no longer an effective way to make decisions.

2. **As author Simon Sinek writes, “start with the why.”** It is no longer satisfactory to be in business to maximize profits. What is your raison d’etre? Michelin sells safety, not tires. Starbucks sells a lifestyle. Apple sells creativity. Nike sells the inner athlete. Each company knows precisely why it is in business, which allows them to approach theology, more than just a brand. When you read something in the Bible that you don’t believe, you don’t lose faith. You just carve out that one story, that parable. The same is true for brands which are disciplined enough to have an umbilical connection with their customers. Know thyself and to your customers be true.

3. **Track trends like your business life depends on it.** It does. Too many businesses look at big data like an accountant. Instead, look upon it as if you worked at the CIA. A couple of coincidences may portend a trend. Have people who understand business, politics and the cycles of history track the news including, of course, social activity. Lots of screaming can often be ignored while sometimes a single high-authority blogger or lawsuit can mean change is afoot.

4. **There is no Las Vegas — nothing “stays here.”** What happens in Georgia can happen in Texas. What happens to a competitor can happen to you. Plan for it and view what happens to others as your laboratory. Activists look for companies domiciled in battleground states. If you are headquartered there, there is no excuse to be surprised.

5. **Don’t fret calls for boycotts.** The reason the 1965-1970 grape boycott led by Cesar Chavez captured the nation’s attention and changed buying habits is because of the rarity of the strategy. Today, there is a call for a national boycott nearly every hour, one of the most recent, of course, being against Major League Baseball. Calling for a boycott is a click away; acting on them takes both tremendous organizing and a public willing to be impassioned by the cause more than the inconvenience of new purchasing habits. Over the past few years, boycotts and threats of boycotts by more progressive causes seem to be more effective than those by the right. Nike did exceptionally well after calls for boycotts when it embraced Colin Kaepernick. It was no accident. They planned for it.

6. **Be genuine.** Calls for boycotts against Chick-fil-A have never had any momentum, despite their original anti-LGBTQ position. Why? Not because of the politics of it, but because they effectively explained their position as stemming from sincere religious beliefs, not bias or hatred. Audiences can parse issues and intent, given enough time and the integrity of the company.

7. **Nothing is an accident.** In 1971, Saul Alinsky wrote *Rules for Radicals*. While few activists today have read it, they have all stolen pages from its playbook and applied it to the Internet. There are no accidents. Have you wondered why apologies don’t work as well as they used to? It’s because part of the playbook is to leak damaging information after the apology. You need to think like activists. Be in their head. “What would I do if I were them?”

8. **Pick your issues carefully.** Companies should not become vocal on many issues. It is just another version of brand extension; the market won’t support it. Be strategic about your ESG and CSR so you have a history of investment before an issue lands at your front door. If you do comment on an issue, be deliberate and highly selective.
9. **Issues about protecting democracy and Civil Rights are sacred.** There is a scale of social issues that the general public cares about — fewer care about tax cuts, more about minimum wage, and more still about the environment. Support for democracy, franchise and diversity are at the top of the list. Treat them with reverence.

10. **DEI and PAC contributions are indivisible.** You cannot support diversity and inclusion while also supporting candidates who perpetuate voter suppression any more than you could support Members of Congress who failed to vote for presidential certification. There is no wiggle room. The murder of George Floyd and the #BLM protests are a movement — not a moment. There is no going back. DEI support and support for universal franchise are inseparable.

The country is split but it is not as divided as you think. Large numbers of Americans support the direction the country has taken over the past few months, including infrastructure, diversity, vaccinations, environmental stewardship and other issues. Your goal is not to find a place to offend no one, but to understand your corporate “tribe” — and speak to them as your partner to the future.

Richard Levick
Meet Nancy Pelosi

“[An] illuminating new biography of the most powerful woman in American politics.”

On Real Washington, the weekly podcast I co-host with Michael Zeldin, radio and television commentator and the host of That Said with Michael Zeldin on CommPRO, we interviewed Molly Ball, Time Magazine’s National Political Correspondent, political analyst for CNN, and a regular guest on the Sunday political talk shows. She is the author of the New York Times’ best seller Pelosi, just out in paperback this week—and kindly spent three-quarters of an hour with us, offering an insider’s view of Nancy Pelosi, the first woman Speaker of the House, one of the most powerful people in Washington and a consummate vote counter. In the modern political era, there have been few successful speakers for either the Democrats or Republicans, unable to unify their parties, despite Herculean efforts. Speaker Pelosi is a throwback to the rarified skill of vote counting, able to get every last bit of legislation into the compromise. In an age when more attention is paid to television appearances, rallies and 24/7 campaigning, Speaker Pelosi knows how to get things done. Not the least of her skills is exhaustive listening.

Molly traces the speaker from her rise in a working-class Catholic neighborhood where she was “raised to be a nun” and the lessons she learned from her Baltimore political family, to helping to build the modern Democratic Party and how she works with Senate Majority Leader Chuck Schumer to effectively deal with Senate Minority Leader Mitch McConnell in a highly partisan age. All politics are neutral; this biography provides exceptional insights into one of the great and underrated political leaders of our time. Molly is a joyous interview who shares terrific stories along with brilliant political understanding and a few laughs. Join us, won’t you?

Richard Levick

Listen to the podcast
"Amazing Grace, how sweet the sound
That saved a wretch like me.
I once was lost, but now am found
Was blind but now I see."

— John Newton

In an age of instant judgment, declining appreciation for due process, no apparent statute of limitations and little forgiveness, I keep being reminded of people who grew and changed. It is, after all, the purpose of life. Otherwise, wouldn’t we all come back as Hindu-worshiped cows on our first pass with no need for lessons on this earthly plane? As M. Scott Peck wrote, “We are all broken,” working to constantly evolve and improve. Or, as the 14th Dalai Lama said, “Enlightenment is my full-time job and I am still evolving.”

Before we jump on the judgment bandwagon, we might want to distinguish between intention and mistake.

Mahatma Gandhi was an absent father; Winston Churchill dictated memos to his secretary in just a robe from his bed and bathroom; Eleanor Roosevelt wrapped wire around a child’s thumbs to stop them from thumb sucking. Imagine the world for a moment if they and millions of others like them hadn’t been given the opportunity to evolve?

“Licentious libertine” and 18th century slave ship captain John Newton survived a horrific storm at sea off the coast of Ireland, after praying to God and offering to devote his life if he would live to see the morning. Miraculously, the cargo, tossed about by the rough seas, moved about just so to fill a hole in the ship’s hull. There was no overnight conversion, but in time, John Newton fulfilled his promise, renouncing slavery, consulting to politicians who fought for abolition and wrote thousands of hymns, one of the most famous being, of course, Amazing Grace. Who among us was not moved by President Barack Obama singing it at slain Rev. Clementa Pinckney’s funeral, and those killed at Mother Emanuel A.M.E. Church in Charleston, South Carolina, by white supremacist Dylann Roof?
From John Newton to Barack Obama. May the circle be unbroken.

There is an inner peace that comes with being around people who accept, do not judge, listen and work to make the world a better place. It is always quite something to be around them. This past week I had the opportunity to interview three of these remarkable people for different podcasts.

On In House Warrior, I interviewed Hal Donaldson, President and Co-Founder of Convoy of Hope, about a childhood family tragedy — at seven, he lost his father to a drunk driver with his mother so severely injured that he would grow up in poverty and for a time, in the care of neighbors. As a young professional he interviewed the late Mother Teresa, who asked him “What are you doing to make the world a better place?” Faster than John Newton and with far less to be forgiven for, he changed his life and co-founded Convoy of Hope with $300 of groceries he bought for the less fortunate. Flash forward 27 years and the charity has grown to 82nd on the Forbes list of largest charities in the United States, feeding over 387,000 children around the world every day and empowering local adults with the skills and support to become economically independent to escape the cycle of poverty. An extraordinary story, particularly for companies looking at their CSR and ESG footprints. Still, Hal looks from inside the fences outward to the faces of more hungry children and knows, “There is always so much more to do.”

On The Innovators, the weekly podcast I co-host with Clark Atlanta University President Dr. George T. French, Jr., we interviewed Kermit Jones, MD, JD, who can only be described as an over-achiever. He is a doctor, lawyer, member of the patent bar, speaks English, Hindi, Urdu and Spanish, is a former flight surgeon for the U.S. Navy and a former White House Fellow. We talked about Covid, the vaccine rollout, the racism of low expectations by “protectors” and, of course, his beloved Clark Atlanta University, where he received a Chemistry degree.

On Real Washington, the weekly podcast I co-host with Michael Zeldin, radio and television commentator and host of That Said with Michael Zeldin on CommPRO, we spoke with attorney Mark Zaid about the delicate practice of protecting whistleblowers on a show entitled “‘You Can’t Handle the Truth’ — Whistleblowers and the Fight Over Transparency.” Mark’s practice focuses on national security law, freedom of speech constitutional claims and government accountability and is well known for his work on the Ukraine whistleblower case which led directly to the first impeachment of President Trump and the successful $2.7 billion settlement against Libya for the terrorist bombing of Pan Am Flight 103, among many others.

Extraordinary people all.

Was blind but now I see.

Enjoy the listens.

Richard Levick

Listen to Turning Tragedy into A Global Charity — Hal Donaldson, President and Co-Founder of Convoy of Hope

Listen to Whistleblowers and the Fight Over Transparency with High Profile Lawyer Mark Zaid

Read about the podcast: Overachievement with Kermit Jones, MD, JD, Patent Bar Member. Former White House Fellow. Veteran
Ahoy, Matey

“The truth springs from arguments among friends.”
— David Hume

Long before the nascent democracies represented by the Corsican Republic in 1755, America’s Declaration of Independence in 1776 or the French Revolution in 1789, pirates — those sailors so grossly caricatured by the movies — practiced an early form of democracy. It dated all the way back to the 1650s. Pirates were the first to practice a form of universal suffrage in the election of captains — every sailor, including former slaves and indentured servants — got a vote, and there are multiple examples of female pirate captains.

They created Pirate Councils that could remove and replace captains; established an elected quartermaster system which served as a de facto prime minister; introduced a universal health care system; and developed a wealth distribution system according to skill and duty.

As pirates would say, “Avast ye” — pay attention and check this out! Those swashbucklers created the first “republic” — such as it was.

Where does genius come from? New ideas to inspire entrepreneurial zeal? The courage to take great risk, financial and otherwise?

This past week we had four podcasts with leaders that inspired me with their leadership, vision and creativity.

Great Governance — ESG and the Purposeful Corporation

Former USTR Ambassador Ron Kirk, Senior Of Counsel at Gibson Dunn and Co-Chair of the Firm’s International Trade Practice Group, and Hillary Holmes, partner at Gibson Dunn and Co-Chair of the Firm’s Capital Markets Practice Group, discussed their recently launched multi-disciplinary ESG practice, how corporations of all sizes navigate the challenges of evolving and not fully measurable ESG requirements and more. Listen
Is the U.S. Senate Still the World’s Greatest Deliberative Body?

Alex Vogel, CEO of The Vogel Group, the former Chief Counsel to then-Senate Majority Leader Bill Frist, M.D., a lawyer and expert on federal regulatory and legislative strategy, talked about today’s Senate. Is it still the same after Harry Reid’s nuclear option, the denial to President Obama of hearings for a Supreme Court justice, the rushing of confirmation hearings at the end of President Trump’s term and the January 6th insurrection? Is bipartisanship still possible or even desirable? What happens to the filibuster, PAC funding, debt and the infrastructure bill? Alex has views on all and generously shares them with us. Listen

How Did JPMorgan Chase’s Risk Committee Miss the Tsunami That Swallowed Its Planned Super League?

Nir Kossovsky, CEO of Steel City Re, discusses lessons learned from how the highly respected JPMorgan Chase and its internal risk committee missed the regulatory, political, media and grassroots storm that engulfed the launching of the abruptly abandoned football Super League. The collapse was as rapid as it was mercurial; it points to the importance of looking at risk not just from a legal, financial and regulatory point of view, but of seeing risk in the larger context of global dynamics, geography and history. The discussion includes lessons for GCs and how they can help steer their companies away from myopic mistakes. Listen

The New World of Digital Advanced Dispute Resolution (ADR)

Rich Lee, CEO and Co-Founder of New Era ADR, speaks about his new company and how it is offering an online approach to ADR as a way to dramatically reduce cost and increase trust in the digital environment. He also opines on how businesses can adopt digital ADR and what the future holds. Listen

Shiver me timbers. Enjoy the listens.

Richard Levick
Great Scott!

“What makes Superman a hero is not that he has power, but that he has the wisdom and the maturity to use the power wisely.”

— Christopher Reeve

“Great Scott!” Although it didn’t make it into many of the movies, this was a favorite exclamation of Superman (spoiler alert, AKA, Clark Kent) on radio and television from the 1940s through the 1960s. It seemed our superhero, despite all his powers, had the endless ability to be surprised.

We all know Superman came from the planet Krypton, but where did “Great Scott” come from? The book War Slang (1994) ascribes its development as a reference to General Winfield Scott, an American hero of the War of 1812 and a Whig candidate for President in 1852 (he lost to Franklin Pierce) while A Brower’s Dictionary (1980) disagrees and claims it is a derivative of the German “grüß gott” (pronounced “gru-ess got”) or “good day,” a common greeting of warmth amongst German immigrants to America. Regardless of its derivation, it became a Superman moniker for 30 years. When you heard him say it, you knew that crisis — and a heart-racing intervention — were coming, all before the end of the episode.

For a similar period — well over 30 years — we’ve had the honor to work with nearly 400 of the world’s leading law firms. The AmLaw 200, the Of Counsel 700, the Global 100 and some of the world’s leading plaintiff firms. High-profile litigation, transatlantic tie-ups, sexual harassment and false allegations, the loss of significant partners, existential threats, cyber breaches, DEI, revolts, mergers…the list goes on. When it comes to law firms, it is hard to imagine a matter where we haven’t been at the table.

During this period, we have all heard the challenges to law firms — pushback on fees; calls for far greater diversity in hiring and partnership; the threat to the middle market; grow or die; artificial intelligence; Alternative Legal Services; growing in-house practices; the Big
Four and litigation finance, to name a few. This week, we interviewed four superheroes of the legal consulting world as part of our ongoing informal series on challenges to law firms and legal departments (other recent guests have included Trevor Faure, Paul Smith and Peter Zeughauser, among many others). They offered their perspectives on the new law firm cultural challenges, post-Covid re-emergence and making the transition to in-house counsel.

Protecting Your Legal Career During a Time of Great Disruption: Jeffrey Lowe, the Global Practice Leader of Major Lindsey & Africa’s Law Firm Practice Group, and the Managing Partner of their Washington, DC office, discusses what makes a great law firm and in house candidate, particularly today, a time of great disruption. Listen

General Counsels — Proving Themselves Worthy: John Gilmore, Co-Founder and Managing Partner of BarkerGilmore and Admiral (Ret.) A.B. Cruz III, a Senior Advisor and former CLO, GC, CECO, CRO and Corporate Secretary, discuss what makes a great general counsel, how best to interview for the job and how GCs are emerging from Covid tested and ready for even greater leadership roles. Listen

To Go Boldly Where No One Has Gone Before: Michael Short, founding Principal of LawVision, has counseled over 700 law firms of all sizes over the past three decades. He discusses the post-Covid challenges, real estate, Alternative Legal Services, DEI, financial pressure and the coming squeeze on the legal market. He ended the show with the advice that if you are not in the AmLaw 12, it is time to be bold. Listen

“What’s special about Superman is that he will always make the right choice.”

— Max Landis

Enjoy the listens.

Richard Levick
It’s Crypto Time

“It is a highly speculative asset, and I think people should beware, it can be extremely volatile.”
— Janet Yellen

Today, just a dozen years after its introduction, about 14% of Americans own cryptocurrency, with the value worldwide at about $2.4 trillion — or twice that of all U.S. currency in circulation. Yet how many of us fully understand the concept or the risks, let alone the jargon? Dogecoin, for example, is still trading well below the levels it hit just before Elon Musk appeared on Saturday Night Live and called it a “hustle.” The value of Bitcoin is almost 551% over its value a year ago. What happens when the value goes the other way? Is it a currency or a security? How should it be regulated?

As the first episode in a series on cryptocurrency, Amy Kim, Chief Policy Officer for the Chamber for Digital Commerce, joined the weekly podcast, Real Washington, that I co-host with Michael Zeldin of That Said with Michael Zeldin on CommPRO, to discuss issues including a national action plan for blockchain, Anti-Money Laundering (ALM) and Countering the Financing of Terrorism (CFT) compliance, regulatory clarity for digital tokens and promoting the use of blockchain in business.

Happy listening.

Richard Levick

Listen to the episode
The Power of Love

“Though whether I shall ever ‘create’ is something I can’t really tell. But I do believe that it is possible to create, even without ever writing a word or painting a picture, by simply molding one’s inner life. And that too is a deed.”

— Etty Hillesum

It must be 30 years ago, but I still remember it with so much clarity. The shyest student in the undergraduate class at American University where I first started teaching, had been coming into his own and by the end of the semester asked this question: “Had I learned anything since college?” It was the kind of innocent and, at first glance, simple question, that one finds tempting to overlook. But it was also the most remarkable one I can recall in teaching thousands of undergraduate, graduate and law students over the years. Is there a time in life reserved for learning, another for doing, another for retiring and another for the long sleep? No, not if we choose to be universal learners, to use every experience on the road to wisdom.

And books? They are the opportunity for life’s lessons in abundance without having to experience the pain and loss of the author. They are a gift to our consciousness.

Etty Hillesum, who left the quote above for posterity, died at the age of 27 in Auschwitz but miraculously understood, even under such horrendous circumstances, that life was lived in the mind, which is where all creativity begins and that self-awareness alone is its own astonishing journey.

Where do we learn? How do we create? How do we survive and persevere under the most challenging of circumstances? Most of us will not be tested at the level of Etty Hillesum or Malik Gould, a young and successful entrepreneur who appeared on the weekly podcast I co-host with Dr. George T. French, Jr., President of Clark Atlanta University.
Malik survived childhood abandonment, the effects of drug addiction, family dysfunction and PTSD, overcoming adversity time and again with the inspiration of a fatally ill uncle who would gift him his wisdom. Malik speaks about the power of hope, mentoring, love and vulnerability. Already a successful entrepreneur in his early 30s, he has reached back to pay it forward, founding The Black Wall Street Academy as a non-profit to provide educational services to underserved youth.

All of our podcasts go to engineering; we edit out the pauses and mistakes. There is a long pause in this show and we kept it in. It is where Malik is fighting the tears. And so are we. You will, too.

It was too real, too much of a driveway moment, as NPR calls them, when you need to keep listening, even though you have reached your destination. Each day we receive over 5,000 messages and remember almost none of them. It is why advertisers are ever present, hoping repetition with little meaning will be remembered. Yet in this brief moment of silence is a lesson you will never forget.

So…Have I learned anything since college? Almost everything. And on this podcast? Wisdom, boundless courage, indominable strength, the astounding power of love and the inspiration to march forward regardless of the odds.

Keep learning.

Enjoy the listen and the journey.

Richard Levick

Read about the podcast
Howdy, Neighbor

“‘It’s a beautiful day in this neighborhood
A beautiful day for a neighbor.’”

— Fred Rogers

Sleep is not something I take for granted anymore. I was blessed to fall gently asleep early, but staying asleep cannot be taken for granted anymore. At 3:30 am, the reverse gloaming began with me as its witness. When reading, old time radio and a television documentary failed, I succumbed to the band of the unslept and watched *A Beautiful Day in the Neighborhood*.

The scene on the New York subway, which actually happened, where Mr. Rogers is recognized in the car by school kids — largely African-American and Latino — who start singing his theme song, which leads to the entirety of the train becoming a moving chorus, moved me to tears. What if each of us could have such a profound effect? To move so many people to be their better selves?

What if we all tried to act like Fred Rogers? One of the points of the movie is that Fred Rogers really is Mr. Rogers. He says thank you and is consummately polite. He knows the names of the spouses and children of the people he works with. He is a vegetarian because he “couldn’t conceive of eating anything that had a mother,” and he prays for people by name. He also asks of himself and others to think about “all of the people who brought you into being.”

Imagine being that grateful, that generous to strangers, that kind? None of it feels that difficult, but it does take concentration. And forgiveness, not the least for ourselves.

Here we are on the anniversary of the murder of George Floyd and it had me wondering as the sun rose, what would I be like, the country, the world, if we tried every day not to accentuate our differences, but to be thoughtful neighbors? To not judge one another but to love one another?
Maybe May 25th would be remembered for the start of the Constitutional Convention in 1787; or for President John F. Kennedy asking Congress to fund the space program in 1961; or Babe Ruth hitting his last home run in 1935; or the day Star Wars opened in theaters in 1977. Instead of remembering the best of us, we are remembering the worst of us. What we do next dictates if George Floyd died in vain or if this tragedy is the birth of a sacrifice to make us all better.

Last week, we led Today with an extraordinary conversation we had with Malik Gould on the podcast I cohost with Clark Atlanta University President Dr. George T. French, Jr., on the power of perseverance and giving back after tragedy. This week, we include podcasts with people who are changing the world in different ways.

On Real Washington, the weekly program I co-host with Michael Zeldin of That Said with Michael Zeldin on CommPRO, we had CNN political commentators, consultants and cohosts of Hot Mics From Left To Right Alice Stewart and Maria Cardona, who debate their political differences with the greatest of civility. Listen

On In House Warrior we had Donna Wilson, CEO and Managing Partner of Manatt, who is truly building the professional services firm of the future, providing legal and consulting services in a highly collaborative culture where joy reigns along with the hard work. Listen

On Garage2Global with co-hosts Louis Lehot of Foley and Ian Lipner, head of LEVICK’s Cyber and Emerging Companies practice, we were joined by Ilina Cashiola, VP of Communications at Arctic Wolf, a late-stage startup that monitors and tracks cyberattacks before they disrupt business, on building a sustainable startup reputation. Listen

On In House Warrior, we had Andrew Gratz, whom I have known since he was an undergraduate student of mine and is now the Associate General Counsel of LyondellBasell, on rebuilding a company after bankruptcy. Listen

And finally, also on In House Warrior we had Joshua Stone, a U.S.-China relations specialist, a Ph.D. candidate at George Mason University and a combat veteran of the United States Army, discussing our bilateral relations with China. Listen

Remarkable people doing remarkable things. All starting with kindness.

“Neighbors are people who are close to us
And friends are people who are close to our hearts
I like to think of you as my neighbor and my friend.”

― Fred Rogers

With your agency, it can be a beautiful day in the neighborhood.

Enjoy the listens.
Diamonds & Rust

“We both know what memories can bring
They bring diamonds and rust”
— Joan Baez

The difference, it would seem, between youth and aging is that in youth we look forward and naturally see a boundless horizon and infinite deposits of time. After a certain age, we find ourselves just as naturally looking backwards with frequency, often accompanied by the feeling of “diamonds and rust,” both joy and melancholy. What triggers that feeling is often the gentlest prodding to our senses — a song popular during our first love; the pungent smell of a favorite childhood meal instantly transporting us back to our grandmother’s kitchen; sunlight reflecting the way it did at an important moment in time; hearing or even using a favorite expression of a lost loved one. Triggers all.

Whoosh, and there we are, back in time like the characters Drs. Tony Newman and Douglas Phillips of the late 1960s television show, *Time Tunnel*, who tumbled out of that cornucopia-shaped black and white striped tunnel during the credits. We aren’t physically back in time, but part of us is, and at that moment we wonder if time is linear after all. Maybe memories are solidly tangible, like old photographs in a drawer somewhere. If only we knew the combination, we could be back in that moment.

Last week, I had the opportunity to interview Bruce Mehlman, founder of the bipartisan lobbying firm Mehlman Castagnetti Rosen & Thomas, and probably as famous for his quarterly *slide decks* of the pulse of Washington as he is for his access and knowledge of how Washington works. Bruce is a history buff; he deftly compares and contrasts administrations over the decades. The impact of Guttenberg’s printing press and how it led directly to Martin Luther — the first high authority blogger — and the Protestant Reformation; the collapse of the Whigs and birth of the Republican party in the 1850s; George Washington and his respect for decorum; the cycles of American history when we have experienced the rise of corporate political activism; the relationship between President Ronald Reagan, Tip O’Neill and Ted Kennedy and their shared love of single malt
Scotch as it soothed both their souls and their differences. We looked backward to look forward at issues such as shareholder activism and its remarkable impact on energy companies in the past week; the responsibilities and challenges to companies engaging in corporate activism; the fate of the GOP; the successes of President Biden's first 100 days and the trials of the next 100 — and many more. Bruce always has insightful things to say. Give it a listen; I am sure he will be back.

Two days after we recorded the show, I was reminded that it would have been former President John F. Kennedy's 104th birthday (whoosh, there we go, only able to see him in our mind's eye at 45 — as if time has stood still). In 1963, JFK eulogized Robert Frost in what would turn out to be one of his last major public speeches:

“When power leads man toward arrogance, poetry reminds him of his limitations.”

It seemed like the right way to end this essay on Washington.

Enjoy the listen.

Richard Levick

Listen to the episode
Finding Grace

“News is what people want to keep hidden, and everything else is publicity.”
— Bill Moyers

There is a story in the Talmud — though I have heard variations from other religions — which says that while still in utero, a baby is filled with all of the knowledge of the Torah but that just before birth, an angel touches the baby’s lips and all is instantly forgotten. Why? So that in our moments of greatest challenge, we find the wisdom that has been inside of us all along.

In Buddhism, it says that once we find grace, we are surrounded by countless opportunities to share it but that the moments are often so frequent and so subtle that they are like the beetle tapping on the windowpane. We have to pay great attention in the rush of life.

When yogis utter the Japanese phrase, namaste, which you hear whenever you enter a Japanese restaurant, it means both “hello” and “may the godliness in me recognize the godliness in you.”

We are all, it seems, on the road to Graceland, though these last few years have been more about acting on and emphasizing our differences rather than being good guardians to the present, or as Scottish linguist of landscape and explorer Robert Macfarlane says, “practicing being good ancestors.”

When I was a child, I was heavily influenced both from growing up in Washington, D.C. in the shadow of the dome and by the four political assassinations of my youth in the 1960s — Martin Luther King Jr., Malcolm X, John F. Kennedy and Robert F. Kennedy. It was a time when the television interruption of a “Special Report” was synonymous with a punch to your soul.
Call it my own age of innocence, but I thought all lawyers and jurists were like Thurgood Marshall and all politicians were like Daniel Patrick Moynihan, Shirley Chisolm, Jeannette Rankin (before my time but an icon for her independence, being the only member of either chamber of Congress to vote against World War II) and Frank Church (we were neighbors and his son, Chase, was a close friend in elementary school, where everything felt local and personal).

Journalists were all like Walter Cronkite, Bill Moyers, Chet Huntley and David Brinkley. They weren’t local, but their evening television appearances made it feel like we were all neighbors.

State attorneys general were all like Walter Mondale who wrote — and led 22 other state AGs — on the rare Supreme Court amicus brief on the side of the criminally accused, urging the Court to recognize indigent defendants’ Sixth Amendment right to appointed counsel in felony cases (Gideon v. Wainwright). Nothing politically expedient in it for the Minnesota AG in 1960, other than to see the scales of justice balanced.

Giants all. Men and women who stood up for what they believed in — and they believed fiercely in democracy. Imagine a political and media landscape that aspired to grace?

During the week on our podcast In House Warrior for the Corporate Counsel Business Journal, I interviewed Lori Kalani, a partner at Cozen O’Connor and a pioneer in the rise of the state Attorneys General practices at Big Law. She envisioned and developed this practice which is now more widespread amongst large law firms. During her almost 10 years as in-house counsel for DISH Network, she recognized the need to have personal relationships with each and every state attorneys general and would set about over the next two years meeting every one of them. Imagine what it would be like to be an in-house counsel who had personal relationships with each state AG? When was the last time they reached out to you as a courtesy on a matter?

I also spoke with an old friend and a Washington legend, Bob Bennett, former counsel to two Secretaries of Defense — Clark Clifford (Democrat) and Caspar Weinberger (Republican) — and was President Bill Clinton’s personal lawyer in the Paula Jones case, among many other high-profile matters over a long and distinguished career. Two years ago, Bob and I had lunch in Washington, where he reflected on a time when he could neither enter nor leave a Washington restaurant without dozens of handshakes. There is nothing Washington is infatuated with more than power nor more dismissive of when it senses it has waned. Bob, as always, is well worth listening to, both for his insights and his humanity.

“And that’s the way it is.”

“Goodnight Chet. Goodnight David.”

Enjoy the listens.

Richard Levick

Listen to Do You Know Your Attorney General? With Lori Kalani of Cozen O’Connor

Listen to A Word with Bob Bennett
The Impossible Dream

“To dream the impossible dream
To fight the unbeatable foe
To bear with unbearable sorrow
And to run where the brave dare not go”

— The Impossible Dream lyrics by Leigh Mitch & Darion Joseph

Grandma Dot and Grandpa Sam — you would have liked them if you had met them — were our late mother’s parents and they would dote on my sister and I each school holiday after our mother passed at 25. Our Dad would send us off on the old Eastern shuttle from Washington, DC, to New York and we would spend ten days going to theater, restaurants and Radio City Music Hall literally tasting the life of New York City. I remember the theater most of all, every play we ever saw — *Fiddler on the Roof* with Zero Mostel, *Minnie’s Boys* about the life of the Marx Brothers, off-Broadway with *Don’t Bother Me I Can’t Cope* and on and on.

I remember them all, but the one that is hardwired in my memory is *Man of La Mancha* in 1965, where we sat maybe six rows back, center stage in the shadow of the only stage prop — a nearly three story tall wood beam structure that could be a dungeon, balcony, stairway, windmill, or any number of other props simply by some trick of the creative set designers. And there was Don Quixote, tilting. I knew at the very first moment I heard, “To Dream the Impossible Dream” that that is who I wanted to be. Tilting at windmills became not just an expression but an inspiration.

Long before I was born, on a May evening in 1924, British cellist Beatrice Harrison — also a pioneer of women’s rights — convinced the nascent BBC (apparently against their better
judgment) to try out some new broadcasting equipment — microphones small enough to take outside of the studio and a mile of cables hooked up to a telephone exchange — to broadcast live from her backyard garden, south of London. She played Elgar's Cello Concerto and also improvised, playing in concert with the nightingales singing from her garden. The nightingales, who have 1500 different sounds and 250 repertoires of phrases, sang with her. It went viral, which in 1924 meant she sold millions of records and 50,000 people wrote letters from around the world, asking the BBC for more performances. The BBC, of course, happily complied.

Nine decades later, when British folk singer, conservationist and film maker Sam Lee made a documentary for the BBC to commemorate her, he realized that the birds sing back, changing their key, frequencies and tone to adapt to the music and collaborate with us. I just find this magical. I have squirrels and deer that come to my window and ask me to fill the bird feeder (again). Two Pileated woodpeckers who announce their thrice daily presence with warning calls, foxes and raccoons that recognize me. A Cooper's Hawk, a Brown Owl and the annual migrating Hummingbirds who share my yard. But a bird chorus that sings with me? I am no Dr. Doolittle nor Beatrice Harrison, but I know a miracle when I hear one.

I was thinking of miracles when I was speaking with Becky Diffen, a partner at Norton Rose Fulbright, on our daily podcast, In House Warrior, for the Corporate Counsel Business Journal, on the evolution of renewable energy. Becky has been working on traditional — wind and solar — as well as non-traditional renewables for nearly 20 years. She started long before it was “cool” and now is at the forefront of an energy revolution. A force of nature herself, she started the show recognizing that renewable energy is now the cheapest form of power — without tax incentives. Nearly 40 years ago when I was in graduate school in natural resources, this was the impossible dream, and here we are. Like most of us, I only thought it was economical if the tax incentives were involved. Oil companies are becoming energy companies, pushed along not only by their own vision, but by the courts and activist investors. Red states are recognizing an economic and jobs boom by the heretofore traditionally Blue state initiative of alternative energy production. Due to a rapidly expanding need, there is a shortage of solar installers and wind technicians.

It is no longer tilting at windmills. Emphasized by Total's remarkable pace of green energy acquisitions, the stunning victory of Engine No. 1 winning three seats on the Exxon board, the Dutch court ordering Shell to fast-track cutting emissions and Chevron's leadership and accelerated energy transition, we have passed the tipping point on renewable energy.

Do we win the race in time to avoid the plight of global warming? That's what keeps Becky up at night.

As Bob Dylan would say,

“The answer, my friend, is blowin’ in the wind
The answer is blowin’ in the wind”

Enjoy the listen.

Richard Levick

Listen to the podcast
Not So Prime Day

I’ve been a fan of Amazon since it only sold books. I’ve purchased so many dry goods and household products from the ubiquitous online site over the past two decades that I have often joked that I am the singularity — the reason Amazon was able to eventually go from languishing in the red to luxuriating in the black.

It took over seven years, from its founding the day after Independence Day in 1994 until the fourth quarter of 2001, for it to finally turn a profit. At the time, I found it remarkable and shortsighted that so many financial analysts criticized the company for not turning a profit sooner when it should have been obvious that founder Jeff Bezos understood the race that was the World Wide Web. Profits invested in attracting eyeballs — as the old phrase went — and increasing offerings would eventually pay dividends beyond King Midas’ wildest imagination. Just ask Bill Gates, Mark Zuckerberg, Larry Ellison, Sergey Brin or 25 other internet billionaires. Amazon changed the world, just like they promised.

For over half a century, I’ve been fortunate enough to call The Washington Post my hometown newspaper and cut my political teeth on its brilliant Watergate coverage starting in 1972, the halcyon days of this great paper. And yet it became staid and was losing its grip on being one of America’s three essential daily reads, along with The New York Times and The Wall Street Journal, until Bezos pumped new blood, money and leadership into the paper as its new owner in 2013. The halcyon days are back.

For many consumers, I am sure, surviving the pandemic would have been a far riskier proposition without this retail giant. We wanted for nothing.

Like Icarus before them, the leaders of Silicon Valley — who all seemed at one point to march under Google’s original banner of “Don’t be evil” — have gone from sitting at the side of Zeus’ throne on Mt. Olympus to targets — targets of animus, of legislation and litigation. To build bipartisan consensus in this day and age is really something, and that they have done. For all that I admire about Jeff Bezos and Amazon, I can’t get oil tycoon John D. Rockefeller out of my head. Amazon controls between 50 and 70% of online sales. Compare that to Walmart and eBay which control just 5% each. If you are a retailer and you are not on Amazon, you might as well only be selling your goods in Rhode Island.
Which brings us to Washington, D.C., Attorney General Karl Racine who has brought the first government antitrust suit against Amazon in the United States, alleging that Amazon has stopped merchants that use its platform from charging lower prices for the same products elsewhere online. The New York Times refers to the suit as “both novel and railroad-baron-style old school.”

Kathleen Konopka, Deputy Attorney General for the District of Columbia Office of the Attorney General, joins me on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, to discuss the OAG’s lawsuit. It’s a fascinating inside view of what the Attorney General’s office is thinking and doing, brilliantly focusing on allegations of strongarming competition and raising prices at will.

It’s an extraordinary moment in legislating Big Tech and well worth the listen.

Enjoy the program and feel free to listen in on your Alexa. I am sure she will be listening in, too.

Richard Levick

Listen to the episode
"I Loved That Man"

"History ... is, indeed, little more than the register of the crimes, follies, and misfortune of mankind."
— Edward Gibbon, Author, The History of the Decline and Fall of the Roman Empire

I probably should have known as soon as she said it, but it took a few weeks to register. It was 30 years ago and I had met a lovely woman, and each of the first few dates were wonderful, with endless conversations. What she said — and we were in our 30s by then — is that “I have never suffered emotional heartbreak in my life.” There are, I suppose, those people who are endlessly and permanently enchanted with their first love, but for most of us, romance is like Thomas Edison toiling away in his laboratory in Menlo Park, New Jersey — trial and error, with an emphasis on the latter.

Love, particularly young love, is followed by heartbreak as surely as night is followed by day. To avoid, as Hamlet says, “the slings and arrows of outrageous fortune” is to not only run away from the potential pain of heartbreak, but the lessons and empathy it builds in our unformed souls.

It is, after all, the heartbreak which teaches us that beauty is not in the unattainable mystique but in the merely mortal. As M. Scott Peck wrote, “We are all broken.” Not in the negative, Charlie Brown “Woe is me” sort of way, but instead celebrates us for our differences, for our failures and recoveries, for the beauty of our own imperfections.

After John F. Kennedy was assassinated in 1963, a twenty-one year-old Californian named Tony Coelho decided to become a priest, but at the medical exam required for entering seminary, he was informed he had epilepsy. Cannon law — written in 400 A.D. — prohibited men with epilepsy from becoming priests, because it had been believed that they were possessed by the devil. Significantly depressed and forlorn, he was lost, but after a time, began to find his way when family friend Bob Hope suggested that he might try politics.
Last week on *In House Warrior*, the daily podcast I host for the Corporate Counsel Business Journal, I spoke with the former Congressman, who discussed what Washington was like then and now.

For me, growing up in Washington, where all politics were truly local, Tony Coelho was an institution. Visionary, thoughtful and someone who could cross the aisle. In 1978, after serving as a Hill staff member for years, he was elected to his first of six terms in Congress and by 1980 was named the Chair of the Democratic Congressional Campaign Committee, the first sophomore Congressman to be named since Lyndon Johnson in 1940. As Spike Lee would say, “He got game.”

What Tony Coelho will be most remembered for though is helping to draft and shepherding through the Americans with Disabilities Act (ADA), which President George H.W. Bush signed into law in 1990. Of the late President Bush, Tony would say, “I loved that man.” When the two would see each other years later at the wedding of “Papa” Bush’s granddaughter, the two shared a lengthy embrace. The former President, now confined to a wheelchair, looked up at Tony and said, “You wrote it and I’m using it!”

That ability to cross the aisle, to love and to compromise (but I repeat myself) are the things I aspire to most. Not perfection but seeing past superficial differences and embracing our commonality.

Also on *In House Warrior* this past week, I interviewed Stefan Passantino, the former Deputy White House Counsel to President Donald Trump. Stefan is the chair of Michael Best’s Government Regulations & Public Policy practice, a bipartisan practice which just brought on Senior Counselor Steve Israel, a former U.S. Congressman who served eight terms in Congress and, like Tony Coelho before him, served as Chairman of the Democratic Congressional Campaign Committee.

Both interviews are delightful and insightful. Stefan has been on before and will be again. Tony will become a periodic guest. They give a view of Washington, past and present, and give hope for the future.

I was reading this morning the significant decline in all forms of news media in the months since former President Trump left office, with audiences plunging, particularly for the most partisan media. According to Axios, “Outlets that depend on controversy to stir up resentments have struggled to find a foothold in the Biden era.”

I think that’s a good thing. Politics have become far too much like NASCAR — if it weren’t for the accidents, we’d call it traffic. I’m much more interested in people who get things done.

And the heartbreak along the way? Nothing heals better than a scar.

Enjoy the listens.

Richard Levick

*Listen to A Word With Former Congressman and ADA Co-Author Tony Coelho*

*Listen to A Word With Former Deputy White House Counsel Stefan Passantino, Now With Michael Best*
The Tipping Point

“Look at the world around you. It may seem like an immovable, implacable place. It is not. With the slightest push—in just the right place—it can be tipped.”

— Malcolm Gladwell

So much of history occurs not with a bang, but a whimper. If we listen closely enough and watch carefully, we can witness it, the moment when the scales tip in the other direction.

With the near-meltdown of the Three Mile Island nuclear reactor — amazingly, 12 days after the release of the anti-nuclear power movie China Syndrome in March 1979, creating one the greatest movie coincidences of all time — a national movement was born.

Suddenly, everyone was talking about energy. Primed by several summers of hours-long gas lines made possible by the OPEC oil embargo starting in 1973, America and other parts of the world started looking at energy not as something too cheap to meter, but instead as a central part of national sovereignty, foreign policy, household budgets and political campaigns.

Looking to capitalize and leverage the nascent movement, Ralph Nader, Musicians United for Safe Energy and others organized a series of benefit concerts at New York’s Madison Square Garden and a protest on September 23, 1979, attended by 200,000 people in Battery Park. Energy and the environment had become a movement.

The previous spring, Mr. Nader would play a key role in helping to negotiate some of the big-name musical talent. Ecstatic, late one night in California, having just closed a big deal for one of the hottest artists in the music industry, he called Donald Ross, an extraordinary New York-based community organizer, someone I had the honor to know and a close confidante of Mr. Nader.
A very sleepy Donald Ross answers the phone to learn that Mr. Nader had just secured the services of Jackson Grey. “Jackson Grey?” Mr. Ross, asks, incredulous. “Don’t you mean, Jackson Browne?” “No, it’s Jackson Grey. All the kids love him!” Convinced that Mr. Nader knew what he was talking about, Donald goes back to sleep and the next day, asks dozens of young people, “Have you ever heard of Jackson Grey?” It was, of course, Jackson Browne, who would be joined by Bonnie Raitt, Graham Nash, Pete Seeger and many others and the rest, as they say, is history.

May and June of this year have been similarly seismic for the energy industry. It seems to be the moment when climate change and the green energy movement has become not something happening to the industry, but with it.

European energy giant Total has been acquiring a combination of solar, wind and storage projects at an average rate of 1 Gigawatt per month since January 2020. This past January it acquired a stake in India’s Adani Green Energy, a move that will ultimately include nearly 15 Gigawatts of energy — the equivalent of over 45 million solar panels.

In late May, 61% of Chevron’s shareholders voted in favor of a proposal to cut emissions.

That same week, activist hedge fund Engine No. 1 won a remarkable three seats on the Exxon board.

Also that week, the Hague District Court in the Netherlands ordered Royal Dutch Shell to cut its CO2 emissions by 45% by 2030, compared to its 2019 levels.

The Court’s landmark ruling draws on the growing series of climate change agreements — such as the Paris Agreement — along with human rights standards such as those in the UN Guiding Principles. It is a new day in the energy industry.

On the daily podcast In House Warrior that I host for the Corporate Counsel Business Journal, I interviewed Julianne Hughes-Jennett, a partner with Quinn Emanuel, and Marjun Parcasio, an associate, both in Quinn’s London office, for insights into what all of this means and what’s next.

It may not be quite as melodic as Jackson Grey, but it’s well worth the listen.

As David Frost would say, “That was the week that was.”

Enjoy the listen.

Richard Levick

Listen to the podcast
Seeking To Be Understood

“Our history, despite its wrenching pain, cannot be unlived but if faced with courage it need not be lived again.”
— Maya Angelou

It’s been 40 years and though I haven’t thought about it in years, I can still see in my mind’s eye the flowered dress she was wearing as she walked into the restaurant. Tanned, with dark hair, it was the moment that bad novelists and B movie scripts include, when time seems to slow down and a halo is backlit to accentuate the beauty and love at first sight.

It was a woman walking from across the room in a crowded restaurant, seemingly a stranger, but it would turn out to be my older sister’s dear friend and she was coming right to our table, to sit next to me. To my utter dismay, a relationship would blossom — despite the distance (she was living in New York City, and I lived in Ann Arbor at the time, a struggling grad student and non-profit employee).

You know the rest of the story, because most have us have lived it — the surprise attraction of young love only to be followed by sudden and inexplicable heartbreak. She had wanted me to come back to New York for the Christmas holidays and so I would, driving the 600 miles to spend a glorious week with her, or so I thought. But it was the week Bruce Springsteen would be recording with Gary U.S. Bonds and she worked at NBC/RCA and would be needed. Two things instantly became obvious from her eyes if not her words, as I stood in her office, fresh from my long drive: She had a crush on Bruce, and I was now an afterthought. While it broke my heart, I immediately saw the bright side. He had left some disposable razors at her apartment, which had become an encampment for the band as they worked at the RCA studios close by. I might not have gotten the romance, but I did get one of his razors.
That night, unable to sleep, I spent the night at an old friend's apartment and we talked the night through. Or I did, and he, being my best friend, was kind enough to listen. We also listened to Pachelbel's Cannon at least 50 times, maybe more. It was in the age of turntables, so it meant one of us had to get up every four minutes and forty-one seconds for hours on end to move the needle. But such is the commitment of best friends in the wake of heartbreak.

I've never heard the song since without thinking of that night. What is funny is, until I had started writing this, I hadn't thought about the moment across the room, just the evening with a best friend, commiserating and trying to understand a different point of view, her point of view. Time marches on, but what is clear is that what we want most in life is to be understood. It's what we all want. The Buddhists describe it as speaking to the center of the forehead of the person we are speaking to. Stephen Covey famously wrote about it in Chapter 5 of his Seven Habits, Seek First to Understand, Then to Be Understood. I suppose most of the anger from the January 6th insurrectionists came from a desire to be understood.

What makes a best friend and a consummate partner is that they understand.

Why do we cling to our point of view? I don't mean well-reasoned ones, but those in the face of a substantial body of evidence suggesting that we at least look at a different perspective. There are a lot of reasons for this, some good, some lazy, but wisdom comes from recurrent reexamining, not endless orthodoxy.

It is hard to imagine matriculating through all of high school and college without ever reading about the Tulsa race massacre of 1921, but most of us white students did.

Or understanding Apartheid’s legacy without considering the impact not just of racial segregation but of geographic segregation, which makes economic advancement, even 27 years after its abolition, so challenging.

Or the different perspectives of the Gulf Arab states — rather than thinking of them as just the “Middle East.”

Or the irony of describing the complex fabric that is Asia, with its millennium of history and differences, as if it were a monolith.

Our podcasts this week include guests from different perspectives to help us gently ask ourselves questions about our own viewpoints.

Author, attorney and historian Hannibal Johnson, who has written several books about the Greenwood District and the Tulsa race massacre and chairs the Education Committee for the 1921 Tulsa Race Massacre Centennial Commission, joined me on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal. He speaks eloquently about the massacre; the power of acknowledgement, apology, and atonement; and why it is so critical to understand this oft deliberately ignored moment in American history.

Dr. Tshilidzi Ratshitanga, Chairman and Founder of the New Cities New Economies Group of Companies joined Dr. George T. French, Jr., President of Clark Atlanta University and me on our weekly podcast, The Innovators, to discuss his economic vision for South Africa which includes the building of new, egalitarian cities to support economic and social justice to overcome the legacy of spatial injustices inherited from Apartheid. His book on the vision, New Cities New Economies: South Africa and Africa’s Grand Plan, A Pan-African Economic Revolution is now available.

Dr. James Dorsey, an award-winning journalist, author and senior fellow at Nanyang Technological University’s S. Rajaratnam School of International Studies in Singapore joined me on In House Warrior to discuss Saudi Arabia’s efforts to replace the UAE and Qatar as the go-to regional business hub using global sports, simplifying business complexity and diversifying beyond oil. But on shifts in human rights policies, the Kingdom has so far been silent.

Robert Lewis, a Beijing-based American lawyer, multiple book author, authority on Chinese and U.S. trade and Senior International Consultant with Chance Bridge Partners, joined me on In House Warrior to discuss the tensions between the U.S. and China, the Canadian and European perspective, the risks for U.S. multinational corporations, what U.S. companies should be doing and what the U.S. and Chinese policies should be. He is releasing an in-depth, five-part article which is a must-read for all those affected. What’s next in China-U.S. trade?
On Real Washington, the weekly podcast I host with Michael Zeldin of That Said with Michael Zeldin on CommPRO, Josh Rogin, foreign policy columnist for the Global Opinion section of The Washington Post and a political analyst for CNN, joined us to discuss his new book, Chaos Under Heaven: Trump, Xi, and the Battle for the 21st Century. He provided a tour de force of issues confronting bilateral relations, including the initial thinking of the Biden Administration, new tests for Chinese companies wanting to trade on U.S. financial exchanges, domestic and foreign challenges for President and General Secretary Xi Jinping, risks for Chinese companies doing business in America and recommendations for moving forward.

As Elvis Costello would famously sing, “What’s so funny about peace, love and understanding?”

Enjoy the listens.

Richard Levick

Listen to The Tulsa Race Massacre

Read about the podcast: Building a New South Africa

Listen to Saudi Arabia Positions to Become the Dominant Business Player in the Gulf

Listen to What’s Next in China-U.S. Trade?

Listen to Real Washington With Josh Rogin
Finding Courage

“Justice is a train that always comes too late.”
— Yevgeny Yevtushenko

Knowledge may be power but too much of it at once can be, well, overpowering. I’ve been a consummate reader since childhood when *Catcher in the Rye* and *Instant Replay* captured my imagination and I realized that entire evenings could be lost in books. A decade later I recognized that a career could be built on words.

There are days, however, when, like Honoré de Balzac and his 50 cups of coffee per day, I am over-satiated with information and lose intellectual interest in almost everything — a sharp decline from my normal interest in almost everything — and I just cannot read one more article, op-ed or essay about the day’s news.

There I was, Saturday morning, and I thought I would take in information in my second favorite medium, via audio, so I listened to the *New York Times*’ podcast *The Daily*, one of the best news analysis podcasts in existence.

This time, it was a mistake. Not because it wasn’t perfectly executed audio, but because it was too well done, too painful. It reminded me of why I so often listen to the radio serials from the 1930s through the early 1970s, where mysteries, westerns, police dramas, science fiction and comedies sooth an overtaxed mind. The most emotionally dangerous shows in that genre are *War of the Worlds* and the lesser-known *The Outer Limit and The Parade*.

I listened to the tragic stories told by Garry Gottfriedson, who, at the age of five in 1959, as a member of the Tk’emlúps te Secwépemc First Nation in British Columbia, was mandated to be separated from his family and attend the Kamloops Indian Residential School. It is a brutally powerful show if you can afford the emotional toll of listening. The stories he shared about the schools — the pedophilia, the physical and mental abuse that drove at least one young girl he knew to suicide, the slave labor under the guise of “education” — leave you wincing and wondering the existential question, “Where was God?”
These were largely Catholic priests and nuns, operating under the dictates of the Canadian government. Our kindly neighbors to the north, led by “people of God,” mandated by a government intent on eviscerating every last vestige of First Nation people — their land, language, culture, family, beliefs. These acts are only now coming to light because of two ghastly discoveries of the remains of hundreds of First Nation children in unmarked graves. Beware, these stories of atrocities are likely coming south as the U.S. Department of the Interior begins its own domestic investigations.

For all of our unbridled optimism — the days when all we see are rainbows and all we hear are the birds symphonically chirping — this was a day to fixate on man’s inhumanity. The Holocaust, the Cambodian killing fields, Darfur, Bangladesh, Rwanda, nearly a half millennium of slavery, Manifest Destiny and on and on. If the Unidentified Arial Phenomenon we are seeing are real, is there any doubt why they aren’t stopping here?

As 19th century American Unitarian preacher and abolitionist Theodore Parker wrote, and as Martin Luther King, Jr. later made famous, “The arc of the moral universe is long, but it bends toward justice.” I think so, but there are days when I am not so sure. Just who has the courage to bend it?

Who has the strength to work like Sisyphus bending the arc of the moral universe inch by inch? The ones who are self-aware but not self-righteous, who have doubts but are ultimately indefatigable?

After years of us being aware of each other but never working together, I had the honor to interview Ted Boutrous: a partner in the law firm of Gibson, Dunn & Crutcher, a member of the Firm’s Executive and Management Committees, a specialist in First Amendment law and “Top Lawyer of the Decade” (Los Angeles & San Francisco Daily Journals, 2021), “Litigator of the Year, Grand Prize Winner” (American Lawyer 2019) and “100 Most Influential Lawyers in America” (National Law Journal, 2013) among many other honorifics. He joined my co-host Michael Zeldin of That Said with Michael Zeldin on CommPRO and me on our weekly podcast, Real Washington. The conversation went so deep and was so interesting we immediately all agreed to do more shows together.

Ted discussed the growing threat to New York Times v. Sullivan, a landmark First Amendment case and the bedrock of modern First Amendment law; the Critical Race Theory debate; the current Supreme Court makeup; representing Mary Trump and other issues before the courts.

As The New York Times has noted, Mr. Boutrous has “a long history of pushing the courts and the public to see the bigger picture on heated issues.” He has argued more than 100 appeals, including before the Supreme Court of the United States, 12 different federal circuit courts of appeals, nine different state supreme courts and a multitude of other appellate and trial courts in complex civil, constitutional and criminal matters.

He successfully represented CNN and Jim Acosta in bringing First Amendment and Due Process claims against President Donald Trump and other White House officials, forcing the White House to restore Mr. Acosta’s press credentials and doing the same successfully for Brian Karem, Playboy’s White House Correspondent (who previously appeared on Real Washington). In a landmark ruling, along with Gibson Dunn partner and legal legend Ted Olson, they successfully overturned California’s same sex marriage ban (Proposition 8).

In the early part of the last century, Learned Hand of the United States District Court for New York was coincidentally on a long, snow-delayed train ride with U.S. Supreme Court Justice Oliver Wendel Holmes, and over nine hours they discussed Justice Hand’s view of the First Amendment. Over the next 20 years, this would grow into regular correspondences between the justices and judicial philosopher and civil rights advocate Professor Zechariah Chafee, Jr., and go on to form the foundation of the modern First Amendment. Were it not for this accident of history, few of the First Amendment freedoms we enjoy and take for granted today would be protected. As New York Times v. Sullivan comes under increased criticism, do not take them for granted tomorrow.

At the end of the show, Ted called this “A precarious time.” A precarious time indeed.

“Success is not final, failure is not fatal: it is the courage to continue that counts.”
— Winston Churchill

Enjoy the listen.

Richard Levick

Listen to “A Precarious Time” Real Washington With Ted Boutrous, A Partner With Gibson, Dunn & Crutcher
Bibi & Jerry’s Political Crunch

“Your love is better than ice cream
Better than anything else that I’ve tried
And your love is better than ice cream
Everyone here knows how to fight

And it’s a long way down
It’s a long way down
It’s a long way down to the place
Where we started from.”

— Sarah McLachlan

What are the limits to conscious capitalism? Companies increasingly feel compelled to take political positions, but what are the limits once you engage?

When I first saw the headlines of Ben & Jerry’s weighing in on the occupied West Bank — that they would stop selling their ice cream in the occupied territories because it “wasn’t consistent with their values” — I knew there would be lessons in conscious capitalism. I just didn’t expect to react so critically. I learned long ago as an undergraduate that trying to unwind Israeli-Palestinian politics was a Rubik’s Cube inside of a Gordian Knot with gloves on.

While I make most of my own ice cream, I have nonetheless been a fan of Ben & Jerry’s products and their social brand position for over 40 years. But the more I read about their position, the worse it gets. As the late former British Labour Chancellor Denis Healey used to say, “When you’re in a hole, stop digging.”
Corporate social activism is not new, though with notable exceptions over the past 250 years, it has largely been a third rail for most companies. The combination of today’s political divisiveness and ESG movements have increasingly forced an escalating number of companies out of their cones of silence. As I have written before, “corporate neutrality is dead.”

Cultural leadership — especially visionary leadership ahead of its time — is neither easy nor without its severe critics. Most people — CEOs understandably included — are intimidated enough by the slings and arrows of the present to reflexively avoid helping to shepherd in the future, especially when it is outside of the corporate purpose.

When Al Jazeera asked me to come on air to opine on Ben & Jerry’s, I did so with, as Lyndon Johnson would say, a “heavy heart.” Try as I might, I couldn’t find in Ben & Jerry’s a Profiles in Courage that would provide leadership rules for other companies navigating the new age of conscious capitalism.

However, by reverse engineering the Ben & Jerry’s decision, we have been able to identify a number of pitfalls for companies to avoid:

**Don’t drink the Kool-Aid**

It’s as if Ben & Jerry’s own history of successful and laudable social activism — sustainable agriculture, paying a living wage, donating proceeds to charity and speaking out early and powerfully on Black Lives Matter to name just a few — blinded them to the dangers of this issue.

Each and every issue a company takes a stand on — and for most companies, that should be an exceptionally short list — needs to be first viewed in a vacuum. How does this issue impact us as a singularity? Then examine it in the full body of evidence of the entire company’s positions, present and past as well as where the larger society is at the time.

Don’t assume that because you have gotten it right every time before you will again. As they say in the finance industry, “Past performance is no guarantee of future results.”

**Where’s the nexus?**

Delta Airlines briefly — and loudly — got in trouble in Georgia on the voter suppression legislation because they had weighed in during the legislative drafting phase in an attempt to limit some of its provisions, and this made it appear as if the Georgia-headquartered airline had supported the suppressive intent of the legislation. Their subsequent leadership in strongly opposing the law immediately thereafter had a geographic nexus — they are the largest employer in Atlanta.

For Nike, embracing Colin Kaepernick over one of their largest clients — the NFL — had nexi both in that they stayed in the world of sports and second, that Colin Kaepernick is where the market is going. They accurately predicted the market, as they have so many times, with women’s, LGBTQ and disabled athletics. Their shareholders, along with our collective consciousness, have all benefited.

For Starbucks, responding so well to the improper arrest of two African American men in one of their Philadelphia stores in 2018 was consistent with their brand to be the “third place” — neither home nor office where people — everyone — were welcomed to gather.

In all of these examples these companies understood both their brand and its social halo. They went neither too small nor too large.

**Where’s the nexus for Ben & Jerry’s?**

We have started to accept — and in some cases, demand — that companies increasingly have socially conscious brands. Hobby Lobby and Chick-fil-A on the more conservative side of the ledger. Apple and Bosch, with their “Yallah!” initiative supporting young Muslims who are trying to drive change in their communities, on the more progressive side of the scale.

Ben & Jerry’s, with their decades of conscious capitalism, have helped to pave the way for these and hundreds of other companies. But where is the connection to Ben & Jerry’s socially conscious brand? It doesn’t fit into sustainable agriculture. Or environmental stewardship. Or fairly-paid employees and supply chain workers. Or domestic politics. Or even fun. It is as if Henry Kissinger had to stop by South Burlington on his way to Beijing to help open China to the West.
Does it have to be public?

Why did Ben & Jerry’s publicly announce its pull out of the occupied territory? Companies make expansion and contraction decisions all the time. Why did they want to make this so public? Rather than the change-agent activity we have come to expect from Ben & Jerry’s, it feels more like virtue signaling.

What have you done for me lately?

While I will not step on this bandwagon, it is interesting that Ben Cohen and Jerry Greenfield’s Judaism has not protected them from complaints of antisemitism. The company sells in 32 countries, including a number with increasingly authoritarian and repressive governments. Why start with the West Bank?

Ben & Jerry’s has the good fortune of their timing that this occurred post-15 years of Benjamin “Bibi” Netanyahu’s Israel, which means that the U.S. Jewish community does not speak with as much of a singular voice as it did when Golda Meir was the Prime Minister in the 1970s. Nonetheless, Ben & Jerry’s has succeeded in unifying a large portion of American Jewry in their criticism.

Is it a foreign policy issue?

For multinational companies, all the world is domestic — Coca Cola helped provide clean drinking water for refugees in the Middle East as just one of thousands of examples — but these companies universally stay away from publicly weighing in on disputed foreign policy issues.

A good rule of thumb on foreign policy issues is to do it as a part of a larger movement, not as an individual company. The anti-apartheid divestiture movement of the 1980s offers a playbook for how to take on challenging foreign policy issues. It provided companies with the power of numbers, where they did not have to stand alone. Sign a pledge, divest over time, make it part of a movement, not your own CSR.

Past is prologue.

In Washington, DC, where I live, there is an old saying, “No one wants to be first but everyone wants to be second.” Let others take the risk so you can see the pitfalls. And yet, just two years ago it took only months for Airbnb to reverse its ban on West Bank settlement listings. The company became mired in multiple legal actions and critical media.

Similarly, just days after its announcement, Ben & Jerry’s has already been notified by two states — Texas and Florida — that they are examining the new policy to see if it violates their states’ anti-boycott laws. It might also impact the ability of Ben & Jerry’s — and their parent, Unilever — from bidding on state contracts. There are 28 other states with similar laws impacting their pension funds. There is little question that Texas and Florida would use these laws for political purposes, but then again, with such an obvious and anticipatable reaction, why would you risk it?

Milton Friedman’s doctrine that, “The social responsibility of business is to increase its profits” may be increasingly outdated but so is its inverse. The purpose of corporate social responsibility is not to administer self-inflicted wounds.

Do you have internal buy in?

After Unilever CEO Alan Jope released the parent company’s own statement that said Unilever “remains fully committed to our business in Israel,” Ben & Jerry’s Board Chair Anuradha Mittal (Ben & Jerry’s has a separate board) publicly called the Unilever statement “deceit” and added “I can’t stop thinking that this is what happens when you have a board with all women and people of color who have been pushing to do the right thing.”

Ouch.

Ben & Jerry’s has been grappling with the West Bank issue for nearly a dozen years. They didn’t have time to game this out with Unilever? Especially an action which now exposes the parent company to legal action and consumer discontent in the U.S. and Israel?

What’s the brand risk?

Ben & Jerry’s has and deserves its remarkable position as one of the most socially conscious brands in the world. Most people still think of them as “Ben & Jerry’s,” not “Ben & Jerry’s, a high fat, high sugar, subsidiary of Unilever.” Unilever is a $60 billion company with over 400 brands — a polar opposite of the Vermont hippy brand the company has so carefully polished for decades. Why pick a public fight that risks changing this hard-earned perception?
How will the market respond?

This isn't a fair judge as the market is fickle and ground lost can quickly be regained. It is also often used as an excuse not to be courageous. But Unilever's stock is down over four points since the announcement and while much of it can be attributed to rising costs emerging from Covid-19, it raises questions about how much the Ben & Jerry's board was thinking about the parent company.

The crossroads of capitalism, democracy and theology are thorny ones and there will be many more mistakes before we settle on the floor and ceiling of conscious capitalism. Unfortunately, neither Ben & Jerry's decision nor the apparent way they went about it will provide much useful guidance except for what not to do.

On the Ben & Jerry's website they end their West Bank statement with the following line: “We will share an update on this as soon as we're ready.”

We're ready.

Richard Levick
Love is Having to Say You’re Sorry

“The greatest love stories are not those in which love is only spoken, but those in which love is acted upon.”

— Dr. Steve Maraboli

When I was in college, the 1970 movie Love Story was still all the rage. For us young, impressionable teenagers, it seemed to hold the keys for mature love and relationships. The famous — or more accurately — infamous line, “Love means never having to say you’re sorry” was used several times throughout the film, passing for Hollywood’s version of wisdom. It was, after all, the pre-Yoda days.

Even at that age it struck me as at best, trite. The most important thing we learn in any loving relationship is the power of apology and how it turns a potential last transaction into a moment of endearment and a foundation for the future.

In those heady days, I was sure I wanted to devote my life to political activity and started my career as a non-profit lobbyist and community organizer. I read everything I could on political history and organizing. I subscribed to over 20 magazines from the long-defunct In These Times and WIN to Mother Jones and Bulletin of the Atomic Scientists. Of the hundreds of books and articles I devoured, the three I remember as the most transformative were Saul Alinsky’s Rules for Radicals, Howard Zinn’s A People’s History of the United States and John Motl’s hand-drawn and mimeographed 16-page pamphlet on community organizing.

John was a veteran of what the media used to call “Nader’s Raiders” — one of the original Ralph Nader protégés. It was important to John that all the organizers he taught understood the commandments of the craft.
“Always respect the action,” for example, taught us — with the precision of a campaign advance professional — that no detail was too small to escape attention. My favorite was, “All tactics are neutral.” We tend to politicize our tactics — assuming that what works for the left cannot work for the right and vice versa. However, if we strip away the politics, we realize that in the successful execution of tactics lies the path to success. In the 1960s, the Civil Rights movement was built on Black Churches. The Praise The Lord and conservative Christian movement a decade later realized they could use a similar foundation. Ditto mass demonstrations. Richard Viguerie built a conservative empire on direct mail forty years ago and the non-profits on the left realized they too could profit by emulating his scientific approach. The left never could build radio to match Rush Limbaugh, but they could build political comedy television in Stephen Colbert, Bill Maher and others that the right couldn't touch. The right has Fox, the left MSNBC. All tactics are neutral.

Nearly 25 years ago, when I first started this firm, our clients were the major defense law firms — Howrey & Simon, Womble Carlyle, then-Kilpatrick & Cody (now Kilpatrick Townsend) — and many dozens of others. In time, we would work for and with over 300 of the world’s largest law firms, including most of the AmLaw 100 and nearly half of the Global 100. Along the way, we represented a number of the great plaintiff firms. I’ve always argued that the plaintiffs’ firms are a full Internet generation ahead of the defense firms. For the defense firms, Internet marketing and websites are a cost. For the plaintiff bar, it is their full employment act. Plaintiff law firm websites tend to be far better optimized than the defense bar, though that difference has been slowly evaporating. Tactics are neutral.

This past week, I interviewed Scott Hardy on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal. Scott is a 30-year veteran of the tech industry who was first introduced to the wonders of computers as a teenager by an uncle who brought over a modem one night. Before the end of the evening, Scott had the realization that this new technology — not yet called the “World Wide Web” — must be like the experience of those first Mercury astronauts looking out the space capsule window back at Earth. The world had just gotten a lot smaller.

Scott would become one of the Internet legal pioneers, building what has become a class action and mass tort stock exchange called Top Class Actions. It is a website that now gets millions of visitors a year and has hundreds of thousands of followers on its social content. It has increased claim levels from the single digits to as much as 50%. It works.

He imagined, before anyone else did, that plaintiffs needed a place to easily find out if they were eligible for a class action or mass tort award. In time, he also realized that the plaintiff bar needed a place to identify potential class members. His other epiphany was that the companies who were defendants — largely Consumer Packaged Goods companies — could use this as the last line of defense to effectively communicate with currently disgruntled customers.

This opportunity seems obvious, but CPG companies and other defendants are still reluctant to use the platform as they see it as plaintiff’s territory. Companies spend billions of dollars on advertising in the hopes of motivating people to become customers, and in time — through great products and services — that these customers will graduate to become product evangelists. Yet, today, when something goes wrong, what do an increasing number of companies do with unhappy customers? We can no longer change the battery on our phone or smart watch, easily unsubscribe from an app or call customer service and reach a human being. For some companies and their customers, it’s as if we are returning to the days of caveat emptor.

Through Top Class Actions, CPG and other companies can powerfully and effectively communicate with temporarily dissatisfied customers and say “We know you had a bad experience, but our commitment to you is so strong that even when you had to join a class to get satisfaction, we want you to receive your just recompense. Please come back when you are ready.” Brand loyalty is like love. Forgiveness and a return to loyalty are possible when there is an apology and a sacrifice — in these cases, a small check to the litigant. Why not wrap it in a bow?

It seems that all companies and their litigation counsel should be including Top Class Actions as part of their litigation communications strategy. After all, it’s free and a chance to win back a little of that hard-earned loyalty.

All tactics are neutral.

Love is having to say you’re sorry.

Enjoy the listen.

Richard Levick

Listen to the podcast
The Rush To Judgement

"Which office do I go to, to get my reputation back?"
— Raymond Donovan, Former Labor Secretary
Under President Ronald Reagan

Having worked on so many historic crises over the decades — the Catholic Church, AIG, the Gulf oil spill, Guantanamo Bay, the Dubai Ports fallout, the Boko Haram kidnappings of nearly 300 Nigerian schoolgirls, the Champlain Towers South collapse and hundreds more — the story behind the stories has always fascinated me.

It has been a great honor to be in these war rooms around the world, trying to get the truth out in the most challenging of circumstances. Sometimes journalists, in their rush to get it first, don’t always get it right. Make no mistake, we are zealous advocates of the First Amendment, devote pro bono work to journalists — and their families — who are in harm’s way and deeply appreciate the invaluable role they play in upholding democracies — nothing short of a miracle these days. They are the Fourth Estate for a reason. In other columns we will extol their virtues. In this one we will talk about some of their untended victims, when what is reported isn’t always consistent with what happened.

During the early days of the BP Gulf oil spill, some television networks used file footage from the Exxon Valdez, which influenced how people viewed the damage and explains why plants and animals native to Alaska were suddenly seen on television as if they were off the coast of Louisiana.

During the AIG crisis, video from pre-financial crisis events were used by local television as if these poolside retreats occurred after the company had received TARP funds, to give the false impression that AIG was being careless with the federal government’s lifeline.
Two years ago, critics of one of the nation’s largest professional writers groups resulted in so much online criticism — generated by a very few people and their fans — that all of the major media around the world carried the narrative and the defendants — who had the facts and accurate information of what really happened, wouldn’t dare communicate for fear of overwhelming criticism and career suicide.

The Boko Haram kidnappings coincided with a presidential election in Nigeria and quickly became political. To this day we see articles printed in self-described open government publications which infer that we represented the kidnappers, not the people trying to save the schoolgirls. An online campaign of harassment — including death threats serious enough to require full-time security — were part and parcel of the attacks.

Criticism, harassment and death threats for crisis communications professionals are part of the price of the profession. But what of the victims? The people who head the non-profits, associations and companies who were just doing their jobs and then found themselves the appointed villains in a Shakespearean tragedy, often not of their own making?

We humans, it seems, have a need to quickly assign blame. I think it is one of the ways we feel safer and more protected. “If I don’t do anything bad, this will never happen to me.” Unfortunately — like our belief in immortality and eternal youth — it is an illusion. We don’t really believe the innocent are never persecuted, but the myth serves us well.

Some prosecutors look to advance their careers by criminalizing successful — and innocent — CEOs. Online critics pile on and all-too-quickly call out injustice, long before the facts are in. Some plaintiffs join classes motivated by profit, not justice. And sometimes journalists — even very good journalists — in their rush to deadlines, infer blame in the early days of a story which metastasize to become the overarching narrative. They are, after all, the first scribes of history.

Have you ever wondered what it is like to be that executive? That lawyer? That person who, for any of a number of good reasons, can’t or isn’t allowed to get the facts out while everyone else is drawing lines?

In 2016, one of the nation’s great veteran’s charities, the Wounded Warrior Project, was taken to the brink of extinction by the rush of television and newspaper reporting which had the narrative substantially wrong.

The major media started reporting a series of stories over a period of months alleging mismanagement, corruption and self-dealing, virtually all of which turned out not to be true, but the damage was done to this rapidly-growing veterans charity. What is it like to live through a months-long crisis when adversaries are held to a different standard, the inaccurate narrative becomes dominant and the board makes mistakes along the way?

If you have never been in front of that tsunami, you don’t know what a crisis really is.

This week, on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, I interviewed Steven Nardizzi, now a senior Non-Profit Executive at Paragon Strategic Insights and the former CEO of the Wounded Warrior Project, who discusses what it is like to be the target of media and personal animus, particularly when the stories are largely inaccurate.

Enjoy the listen and remember the next time you are thinking of being publicly critical, ask the question, “What would I feel like, what would I do, if that was me?”

Wishful thinking is not a strategy.

Richard Levick
The January 6th Suicides

“From a distance you look like my friend
Even though we are at war
From a distance I can’t comprehend
What all this war is for”
— Julie Gold, “From a Distance”

This week, we lost folk singer Nanci Griffith, whom I have been listening to for probably 40 years or more. Though she wrote dozens of songs, most were made famous by other artists such as Kathy Mattea, Juice Newton, Chet Atkins and Suzy Bogguss. Ironically, her best known song may be *From a Distance*, which Bette Midler also covered but which was written by Julie Gold. Each of the versions — including Julie Gold’s raw recording — always stop me in my tracks. I have to listen to every word.

When I was no more than five years old, there were three highlights to my day: my older sister coming home from kindergarten, the jingle of the Good Humor ice cream truck and the police car on its daily drive through the new neighborhood we called home (that was more rural than it was suburban, though it was only about 40 minutes outside of New York City, this being the very early 1960s). The police officer in the passenger seat who would wave back at me each time made me feel like I was a part of the social fabric. Someone in authority had seen me and I existed. I mattered.

Over the years, as a college student and then political community organizer born of the Civil Rights and nascent environmental movements, I would join dozens of protests — sometimes driving hundreds of miles to have my voice heard. Always peaceful, but always wondering, what were the police officers thinking who are working at the Lincoln Memorial, backstage, on the streets, as we marched by? Were they sympathetic? Angry? Supportive?
Information comes at us so quickly these days that the news fades as fast as a deleted email. We have few national collective moments. No Walter Cronkite to help us digest the instant. We are often quick to anger, quick to forget and seldom find time to process. What’s the headline? Next?


We all have them. Pictures in our minds as real as if they were made of celluloid, not gray and white matter. It turns out that we live publicly but we often suffer privately.

January 6th is one of those collective moments that will not fade. Unfortunately, some companies have gotten it wrong, thinking that this was just another political moment in a period of upheaval, and that they can go back to bipartisan election funding. But January 6th lives on, as does August 24, 1814, when invading British troops marched into Washington and set fire to the U.S. Capitol. This was a riot in search of a protest. We will not forget.

I keep thinking about what was going on in the minds of the police officers, who, far shorthanded, defended the Capitol. They had no idea if or when the insurrection would end. If reinforcements would arrive. If they would survive the onslaught.

In the average year, more police officers take their own lives than die in active duty. This is an ongoing national problem made worse by our largely ignoring it. Since January 6th, four police officers who defended the Capitol — and the people within it — have taken their own lives:

Officer Gunther Hashida.

Officer Kyle DeFreytag.

Officer Howard Liebengood.

Officer Jeffrey Smith.

I do not know how to write infidelity and faithlessness in a way that does not appear partisan, but in June, there were 21 Republicans who refused to vote in favor of awarding the Congressional Gold Medal to the officers who defended the Capitol. We will protect you, but you will not protect us.

This week, on *In House Warrior*, the daily podcast I host for the *Corporate Counsel Business Journal*, I interviewed Steve Hough, an activity duty police officer and the Chief Operating Officer of *First Help*, an organization dedicated to finding emotional, financial and spiritual assistance for first responders. How do police officers cope when they are under more pressure than ever before and often have fewer resources to turn to when they themselves are having trouble coping with what they see and the challenges they face?

We can be more than we are. We can march, protest and engage, but we can still make eye contact, still say hello and thank you when we walk past a police officer. As John Prine — a frequent singing partner of Nanci Griffith’s — sang: *Hello in there, hello.*

We do not need to change our politics, but maybe we can change our conversations. Listen more and judge less.

“God is watching us, God is watching us
God is watching us from a distance”

Enjoy the listen and hello in there.

Richard Levick

*Listen to the podcast*
Sorry Seems to Be the Hardest Word

“It’s sad, so sad
Why can’t we talk it over?
Ohh, it seems to me
That sorry seems to be the hardest word”

— Elton John

In the late 1960s, when I was in fifth through seventh grades, my best friend, Becky, lived a few houses away. I was a motherless child and she was my shepherd through the tumultuous years of early adolescence, helping me navigate childhood angst and the feelings of not belonging, not being cool, not fitting in. I don’t know how she did it, but she seemed to be filled with the wisdom of Yoda despite our identical ages.

In the terminology of the day, she was a “Tom Boy,” a girl who would prefer to play sports and get in the rough and tumble. A remarkable golfer, she taught me golf and how to caddy. She encouraged me to invent the sports board games I did, then would play with me for hours to make sure they provided the endless entertainment we hoped. What I remember most were our conversations — as if we had discovered our own magical wardrobe in our private Chronicles of Narnia. We discussed all the vexing issues of childhood: first crushes, the loss of a grandparent, our growing independence, the existence of God. She helped me fit into my budding teenage self — particularly challenging at a time when bell bottoms and long hair were the definition of cool and my father would permit neither.

If there is an apex of innocence, boundless transparency, and extreme honesty, it was those years and that friendship with Becky. When friends become family — you know that feeling. We find it seldom and when we do, it fills us. We understand and we are understood. It is peace in a tumultuous world.
As the years passed and we got into high school, our circle of friends changed, and while we always liked each other, we never did spend that kind of time together again. We went off to separate colleges and then she joined the Coast Guard. We lost touch. As far as I can remember, she never went to a high school reunion. But she always remained a warm memory. As Eleanor Roosevelt said, “Many people will walk in and out of your life, but only true friends will leave footprints in your heart.”

It turned out that we shared everything except one secret. Becky wasn’t just a young Tom Boy. As she aged, she recognized her sexual preference and built a full life, but it wasn’t safe to come out during those years and certainly not in the military. Looking back, one of the reasons Becky and I were so close is that I had recognized in her a fellow outsider. In youth, readers, budding intellectuals, the sensitive, homosexuals (we didn’t have acronyms like LGBTQ back then), are the outsiders. We were fellow travelers in our un-coolness.

One day about 15 years ago I got a call at the office. It was Becky, only she had come out and her name was now Lee. We had not spoken in more than 25 years but we instantly bonded on the phone. She was in trouble and near her breaking point. She was going to lose her business; her home; her board positions; her ex-wife, with whom she remained close and shared a business interest; was going to lose her half of the business as well. Even the peacefulness of her home life and community were at stake.

As she explained the story, she said, “I have no idea what else to do, who else to turn to, but I’ve tried everything. And then this voice popped into my head and it said, ‘Call Richard. He will help.’” It’s not really important to this story what strategy we used with the media to turn this around, almost instantly, but it worked. Being a weekly columnist in a national business publication at the time certainly helped.

When people ask me, after all these decades, what the most rewarding moment in my career is, this story always pops into my mind. We have been honored to be at the crossroads of history so many times — Guantanamo Bay, AIG, the Catholic Church, January 6th, the Champlain Towers collapse, and on and on. I’m proud of every one of those moments when we have helped people in need and left a fingerprint on history. But the moment of pro bono service for an old friend — a friend who held my hand during a turbulent childhood — fills me.

Isn’t that what we are all looking for in life? That human connection that conquers time and distance? That knows no bounds? That has no secrets?

I was thinking about those human connections when I had Doug Wojcieszak, founder of Sorry Works!, cohost my daily podcast, In House Warrior, for the Corporate Counsel Business Journal, recently. Doug lost his oldest brother to medical errors in 1998 and his family successfully sued the hospital and doctors, settling the case in 2000. The hospital attorneys — not the doctors — empathized with the family, but only after the case was settled and money exchanged hands. The doctors never did admit fault or apologize for the fatal errors.

From this tragedy, Doug built an international movement which is changing the equation of organizations dealing with adverse medical events and reducing litigation costs, time, and distress through the power of the apology. It turns out that overwhelmingly, people want to hear an honest apology, to be recognized as human, to know that the people responsible for the error understand their loss. While we spend our days endlessly chasing dollars, what we really want is to feel whole: to matter, to be recognized.

Joining us on the podcast was Jean Martin, a board-certified emergency physician and attorney who works in the legal department of COPIC, a leading medical liability insurance provider. She discusses how COPIC implemented a Sorry Works! program and how defense lawyers learned to stop fearing the program and came to embrace it. It moves hospitals and their lawyers away from the “Delay, deny and defend” approach and helps move them to “Doing what is right for the patient.”

It turns out that the Sorry Works! miracle of reducing medical liability in patient care may also have applicability in other sectors as well, even with loss of life. A little love and humility goes a long way.

As lawyers we are trained to win, but humanity and an apology have a power all their own.

Enjoy the listen.

Richard Levick

The Sorry Works Miracle
But Wait, There’s More

It used to be so natural
(Used to be…)
To talk about forever
But ‘used to be’s’ don’t count anymore
They just lay on the floor
‘Til we sweep them away

(You don’t say you need me)
And you don’t sing me love songs
You don’t bring me flowers anymore
(You don’t bring me flowers anymore)

— Sung by Barbara Streisand & Neil Diamond

As a child growing up on The Washington Post, I couldn’t wait to get back to the top of the staircase to scan the front-page headlines before dawn. I would revisit those stories later, but I would devour the sports section. Even the tiny type of the baseball box scores and the minor league hockey standings — we didn’t have an NHL team then and the AHL’s Baltimore Clippers were the closest thing. What young men and women were doing in their physical prime was almost as important to me as the Spiro Agnew bribery scandal (he used to receive cash in paper sacks in the White House) or Watergate, which would unfold a few years later.
These days, the section I am always sure to read after the Op-Eds (or “Guest Essays” as the New York Times now calls them) are the obituaries. Not out of morbid curiosity but for the twin reason that they are a measure of the passage of time, seeing the icons of our age, just a generation ahead, pass on. And it gives meaning to this blink we call life and allows us to mourn and celebrate a life well lived. Could Charlie Watts be gone? A Rolling Stone 80?

Or the historian and prolific author James Loewen, author of “Lies My Teacher Told Me”? “Telling the truth about the past helps cause justice in the present. Achieving justice in the present helps us tell the truth about the past.”

It is a reminder each day that the present is not forever and gives wings to our own limited perspectives.

Watching this week’s highlighted Ted video featuring the now late humorist, philosopher and writer Emily Levine who made peace with her fatal prognosis and made us all laugh — and think — in the process. She told us how to embrace reality.

Spoiler alert: the only time she choked up was when she thanked her audience — all her audiences of all time — because over a long lifetime she had realized that life is at the crossroads between speaker and audience. We are not apart from our audiences, we are among them. How we interact is where life is.

A day after watching the video I read the essay by Dr. Kate Bowler in the New York Times. She is an associate professor at Duke Divinity School and the author of No Cure for Being Human, who at 35 has Stage IV colon cancer and a slim chance of survival. Bucket list? Why, she asks? So we can convince ourselves we have lived?

Sometimes I wonder if virtue signaling has become a new form of social status — the new bucket list. It is no longer a Mercedes Benz S-Class which inspires competition with the Joneses but our virtue billboard. It isn’t enough to be a vegetarian, a voter and a civil rights activist. We need to be a vegan, antiracist, Prius driver who never utters a suspect pronoun. Sometimes public debates feel like the old Monty Python skit about who had a more challenging childhood. “Corridor?! I used to dream of living in a corridor.”

I deeply appreciate the importance and sanctity of our identities — a part of my social consciousness for more than 50 years. But our public identities are only a part of us, not all of us. We are far more complicated than a line under our email signatures. And so are the identities of our audiences. It is not the virtue signaling bucket list that counts, it is the interaction. It is how we listen and accept each other. That is where the magic and life comes from.

In Genesis 28:16, Jacob awakens from his dream to these words: “God is in this place and I didn’t know it.” In the good and the evil, the beautiful and the tragic. If God is in the good and the bad, then so are we. Categorizing others may feel good, but it is just denial. We humans are complicated. Speaker and audience.

This week we had three guests on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, who discussed people and issues who were and are at peace with their audiences.

Washington Post columnist and longtime Time magazine editor-at-large David Von Drehle joined me to discuss his laudatory column about the passing of American salesman extraordinaire, Ron Popeil.

Mr. Popeil was the first to realize the power of the infomercial and taught a generation of Americans how to sell through entertainment with his now-famous tagline, “Isn’t that amazing?” He knew that success was about finding categories that no one else filled and then dominating them. As early 20th century professional baseball player Willie Keeler used to say, “Hit’em where they ain’t.”

Popeil recognized before anyone else the value of late-night television when networks would go to test signals after the Star-Spangled Banner (yes, television used to be a 6A.M. to 1A.M. affair). This innovation was eventually so successful that he bought TV time in bulk — as much as $40 million worth of time to sell $60 million dollars' worth of products. The Pocket Fishermen, the first Karaoke machine, the Smokeless Ashtray, the Inside-the-Egg Scrambler, Hair in a Can Spray, and, of course, the Veg-o-Matic. Though I never purchased any of them, millions did, and it was truly “until death do us part.”

Mr. Popeil understood his audience. He wasn’t talking at them, he wasn’t acting better or smarter than them. He was part of them, he was part of the joke. Customers were buying the product as much for their benefits as for the entertainment.
Also, on a podcast with my cohost Max Marcucci, was Tara Setmayer, one of television's most outspoken and “must-watch” political contributors and one of my favorite people in Washington. A University of Virginia Resident Scholar, former CNN political commentator and GOP Communications Director, and ABC News contributor, she asks the question about where traditional conservatives go now as the GOP moves further and further to the right. As always, she does it with depth, charm, kindness and understanding.

Finally, Bruce Freed, president and co-founder of the Center for Political Accountability joined me to discuss CPA’s latest report, *Corporate Enablers*, and the challenges for companies trying to recommit to bi-partisan campaign funding after the events surrounding January 6th and the state election law changes in Georgia, Florida, Texas, Michigan, Pennsylvania, Arizona and Iowa.

Never judgmental, Bruce is a forceful truthteller while empathetic to the companies trying to traverse this new territory. To help companies navigate this landscape, he recommends CPA’s Code of Conduct as a guide and *The Fracturing of the American Corporate Elite* as essential reading.

Toward the end of the powerful book *Just Mercy: A Story of Justice and Redemption* on the injustice and inequality of the death penalty, public interest lawyer, advocate and author Bryan Stevenson asks himself, after 25 years of trying and sometimes righting the wrongs of so many death penalty convictions, why he couldn’t just walk away? Walk away from all the brokenness — broken lives, a broken criminal justice system, a broken judiciary — and he realized that he was broken too. We all are. It is not a crime, but a reality and the sooner we embrace it, as Emily Levine embraced her reality, the sooner we come back together.

As Ron Popeil knew, “never sell alone.” We need each other for perspective, depth and understanding.

Enjoy the listens.

Richard Levick

*Listen to Navigating Bi-Partisan Election Funding in the Age of Transparency*

*Listen to But Wait, There’s More — Honoring Ron Popeil*

*Listen to A Word With Tara Setmayer*
The Dark Side of the Moon

“Even intellectuals should have learned by now... that objective rationality is not the default position of the human mind, much less the bedrock of human affairs.”

— Roy Blount, Jr.

For the duration of my second year in law school, I clerked at the U.S. Federal Bureau of Prisons (FBOP) and spent a summer in England, studying and visiting Her Majesty’s Prisons (HMP). I’ve spent enough time inside federal and commonwealth prisons to appreciate Henry David Thoreau’s jail house answer to Ralph Waldo Emerson’s question about why Thoreau was in jail: “Waldo, the question is what are you doing out there?”

One of my jobs was to assist in Freedom of Information (FOIA) requests — which I found interesting. FOIA letters from prisoners required an answer within a statutory period and each one had to be read carefully to see if it contained a meritorious claim. The chief FOIA officer took ill, so I spent a lot of time with those letters. When he unexpectedly passed away, I temporarily and unofficially took over the position and reviewed all FOIA letters, setting up a system to answer them more efficiently — there were only about two dozen types of claims, so it was fairly easy to quickly categorize them, even in the days before personal computers.

Many of the letters were, as you would expect, drafted by prisoners with little else to do but explore every possible claim. But some were heartbreaking and required serious review. A few were from high profile prisoners, which made you feel for a moment like you had a small fingerprint on history.

One day I was reading a handwritten letter — which most were — that started out with what seemed like a reasonable claim but quickly descended into serpentine rambling
alleging that an unidentified flying object had hovered over the prison yard in an attempt to beam her up. It wasn’t the existence of the UFO that concerned me but the timing. If a spaceship had come to earth in broad daylight to a heavily guarded prison, I didn’t think that the first time I would be reading about it would be in a letter from a prisoner many weeks later. Area 51 is one thing, but a prison yard?

When I got to the end of the letter, it was signed by Lynette “Squeaky” Fromme, who, at the time, was serving a life sentence for attempting to assassinate President Gerald Ford 46 years ago this week. Her defense had been that since the gun was not cocked, she lacked the requisite intent—her decades-long devotion to Charles Manson notwithstanding. Years later, in 2009, she would be released, and now apparently lives a quiet life in upstate New York, on planet Earth.

Of all the thousands of letters I read that year, hers is the one I remember with the most clarity. The first half was so sincere and logical and then it just descended into something I am sure she knew to be true but most certainly was not. At the time, in the mid-1980s, I felt sorry for her being a prisoner of a mind that clearly functioned well part of the time, for part of the argument. Today, when reading the news, I often feel like I am reading a treasure trove of Squeaky Fromme letters. Are we really debating some of these issues?

When Roger Waters of Pink Floyd wrote the classic *Dark Side of the Moon* lyrics in 1973, he was saying that madness is like the dark side of the moon — always there, but something we never see. Until now.

Since World War II we have faced some remarkably challenging issues, but most seem fairly mundane by today’s standards. As Michigan Republican Senator Arthur Vandenberg said in his famous bipartisan support of Harry Truman in 1948, “We must stop politics at the water’s edge.” Over the years, we have disagreed about policy but not our form of government. Today we worry about the very future of the Republic.

Maybe we should have worried all along.

This past week I was joined by Syracuse University Professor Dennis Rasmussen, author of the book *Fears of a Setting Sun: The Disillusionment of America’s Founders*, on *In House Warrior*, the daily podcast I host for the *Corporate Counsel Business Journal*. In his extensive study of their letters in later life, he has learned that the optimism of the Founding Fathers — including George Washington, Alexander Hamilton, John Adams, Thomas Jefferson and James Madison — migrated to pessimism as they aged. They lost a great deal of confidence in this experiment called democracy.

Those who like to refer to the Founding Fathers as if they were frozen in time miss their ever-expanding views and growing cynicism. Even French philosopher Alexis de Tocqueville, author of *Democracy in America* and an enormous fan of the revolution, would descend into pessimism in later life. “Original intent,” hardly. More like “momentary intent.” The Constitution’s beauty — and its vulnerability — is that it always evolves.

Civilization, like sanity, is on a finer edge than we would like to admit and holding onto order is a heavier burden than we ever imagined.

John Adams worried that we were a people better in war than in peace, prone to being easily spoiled in peacetime and not taking the time to engage in the activities necessary for a healthy Republic.

I worry about that too. Our fear today is not the external threat. As was first reported on an Earth Day poster in 1970 and later made famous in a Pogo cartoon, apparently, “We have met the enemy and he is us.”

This is, after all, just a great experiment. Other than the pirates in the seventeenth century, self-rule had never been tried before. Leadership was God’s work, as interpreted by kings, emperors and popes. For the last two and half centuries we have found it the providence of mere mortals.

Despite our reverence, it turns out that the Founding Fathers were just mortals too.

We ended the show with Professor Rasmussen’s hopefulness — that America has been bent many times but never broken. If we have learned anything these last few years it is that America requires, as Barry Goldwater would say, “eternal vigilance.” It also requires listening and gentleness.

Let us not prove the demoralization of Washington, Hamilton, Jefferson, Adams, and Madison right. Let us shine with our greatest selves or we will all end up on the dark side of the moon.

Enjoy the listen.

Richard Levick

*Listen to Fears of the Setting Sun*
Unplugged with Michael Caputo

“How I wish, how I wish you were here
We’re just two lost souls
Swimming in a fishbowl
Year after year
Running over the same old ground
What have we found?
The same old fears
Wish you were here”

— Roger Waters & David Gilmour of Pink Floyd

Almost 40 years ago I was reading a short story by Jerzy Kosiński — the Polish novelist most famous for his novel Being There — about a protagonist who is drowning in the opening scene, only to find an island, where he builds a simple but sustainable life by his shipwrecked self. In the final scene, we realize that the only real scene in the story is his drowning and that his safety on the island was his imagination in his final minutes. The power and detail of this last illusion is so extraordinary that I can recall exactly where I was as I finished the story. Some scenes — real or imagined — we never forget.

What if — just as Kosiński’s protagonist — we could live a lifetime in the minutes it took to drown? Maybe that is why sleep becomes so elusive as we age, ruminating in the gloaming on the millions of decisions large and small which make up a lifetime. As Shakespeare’s Hamlet would soliloquize, “To sleep, perchance to dream.”
Isn’t that the demarcation of adulthood: the arrival of regrets; the search for forgiveness, redemption, and deliverance? What happens when our lives take a sudden turn? We read the news filled with stories of instant internet billionaires made to appear like Lipton soup. Just add water. An entire generation of entrepreneurs believes, as the National Lottery song goes, “This could be you.”

While many of us are fortunate enough to experience varying degrees of success, few enjoy the rocket-like propulsion of instant, glorious and permanent accomplishment that these narratives would have us revere. For most of us, life is a series of pendulums where we swing from success, health and happiness to the evisceration of one or more of these things. What happens when it all disappears at once? When the reality is the drowning and not the dream?

I hadn’t thought about that Kosiński story in years until I spoke with Michael Caputo, the former Assistant Secretary of Public Affairs in the Department of Health and Human Services in the Trump administration. Michael was widely — and often incorrectly — criticized for his communications of the roll out of the federal government’s COVID-19 response. He was, among other things, instrumental in the branding and the communications of Operation Warp Speed. He joined me this week for a two-part interview on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal.

Michael has gone almost incommunicado — an unusual state for a lifelong professional spokesperson. Since leaving the White House, he has been living in an undisclosed location and has given only one substantive interview — a 7,000 word profile in POLITICO called “It Nearly Killed Me” — and now In House Warrior. He will do one more broadcast and then go back into isolation. Washington, DC — the town of the long knives — and a vitriolic internet will do that to you.

But it’s worse still. He is in isolation for safety reasons. He was used to some of the violence engaged against him — the media criticism and the public shaming — but soon came death threats, not only against him but against his family. I can tell you, as a recipient of death threats for some of our international work, there is an enormous difference between the idle threats and the ones where you are pretty certain they are watching you…and your family.

It resulted in 45 days in which he could not breathe without manual assistance every nine minutes. That meant not sleeping for more than nine minutes for six straight weeks, and what little sleep he could get would be interrupted at the nine-minute mark with the panic of choking to death.

He lost nearly 100 pounds in the process and almost gave up until a dream with a white light and a message gave him renewed hope. As Michael says, you “Can’t help not trying to drown when you’re drowning.”

I keep trying to imagine what those six weeks must have been like. The only thing I can think of to give us deeper empathy is a passage in John Matthews’ journal, the late 1780’s surveyor and pioneer in the Northwest Territory. He woke up one morning while on an encampment to two gunshots, one of which found its mark in the bare chest of the man next to him, just arising from his own slumber. “Oh God. I have been killed,” were his crewmate’s last words. Imagine living just long enough to articulate your fate and reliving that moment, every nine minutes, seven days a week for 45 days. That’s 7,200 moments of panic and near-death experiences.

Since recovering, he has deepened his spiritual commitment and decided to remake his life. “Stress gives you cancer,” he says, and he had way too much stress. He is in divinity school now and has chosen neither anger nor denial, but instead a painful but redeeming search for answers.

I don’t recall how I met Michael, though it was after the presidential campaign in which he had worked for Donald Trump and before he would be appointed to his HHS position. I do know in our first few meetings that we discussed our many differences — as an international agency, LEVICK is non-partisan — but I still have my own personal points of view. Michael and I are of different political parties, different faiths and geographies and, with the exception of our mutual admiration for Pink Floyd, even fans of different music. Michael is a Grateful Dead head, having gone to hundreds of their shows. I went to one in 1974 but left before the final encore and decided that once was enough.
Michael and I couldn’t be more different.

But from the first meeting, it was also obvious that we liked and respected each other. When Michael got sick, I reached out to offer support and we communicated often. It was then that the relationship deepened. This is why I wrote about Michael, my friend and the human being, not our differences.

We have all changed since 9/11, perhaps never more so than in the past five years. We are even divided about masks and vaccines. It doesn’t end well if we keep on that same path. Only the relationships where we cross the aisle, listen, discuss, and become good neighbors hold hope. Maybe this show is a small step in that direction.

We all know how to do this. We’ve just forgotten.

As the Grateful Dead would say,

*Keep on truckin’, baby*
*I got to keep on truckin’*

Enjoy the listens.

Richard Levick

*Listen to Unplugged with Michael Caputo*

*Listen to Unplugged with Michael Caputo Part 2*
The Golden Moment

“Community is a safe place precisely because no one is attempting to heal or convert you, to fix you, to change you. Instead, the members accept you as you are.”

— M. Scott Peck

You would have liked my father. He seemed to have a lama’s sense of proportion. Never one to be caught in the endless status wars, he was content. He understood the meaning of the word “enough” and was truly happy. It was never about the next thing; it was about us, in this moment.

Today is five years since he passed, and nearly 15 since we lost his wit and wisdom — but not his love — to dementia. I am not unique on this journey of separation, but we are all alone. Each goodbye that is forever has its daily reminders, not the least of which is the beacon of wisdom our late parents provided for us. They had a way, with just a few words, to lift the veil of confusion and illuminate the road to recovery.

In crisis, it seems, we are all orphans, seemingly alone in our conflict and confusion. And when it comes to public crises? We are either dealing with a firehose of far too much information all at once, or just the drip, drip, drip of too little information to know anything with certainty. The first one plays out on the most public of stages, the latter, initially, painfully alone.

At some point in an emerging crisis there is the fidelity question: to whom are we most loyal — the complainant? The institution? Ourselves?

This phase of chaos, of confusion, is an agonizing one. That period when we are confronted with minimal facts but a sense that something is amiss; when two equal and competing goals come into conflict; when we know the right thing but lack the courage to do it.
These are the moments that faith has prepared us for. Either we have the internal strength, or we do not. Either we do the right or the easy thing.

I just interviewed my old friend, Shan Wu, on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal. Shan is a partner with Cohen Seglias, a former federal prosecutor, and a CNN Legal Analyst. We discussed last week's Capitol Hill hearing with Olympic gold medalist Simone Biles and three other elite gymnasts on the mishandling of the sexual abuse claims against Larry Nassar.

Shan asked the compelling question, “Does the inaction by multiple parties give rise to consideration of RICO sex trafficking charges against officials who facilitated and enabled Larry Nassar’s abuse of children and young women?” It is an important question and could mean that the legal journey for many involved who should have known better may not be over.

After our show, I kept thinking of what in crisis communications is known as the “golden moment,” usually early in a crisis when what you do next matters most. I keep wondering: what was in the minds of the executives at USA Gymnastics as they slowly gathered more and more information, as they heard more accusations? Of the FBI agents, whose job it was to investigate? Or of the fourteen — fourteen — administrators at Michigan State University who heard the growing accusations but decided to defend the institution, not the victims? I have a great love for MSU, going back nearly 45 years, but mission number one at a university is always in loco parentis. And yet, person after person forgot.

Of all people — having had a front row seat at thousands of global crises from Yemen to the Miami condo collapse — I fully appreciate that majority opinion is often wrong; that what first appears to be the case may not be; that the first news articles in a crisis frequently get crucial facts wrong and not all accusations are accurate. Accusations, in fact, have their own momentum, their own version of Stockholm Syndrome when people pile on. But this does not mean we ignore them, discount them or belittle the complainants, especially when they are children and young women, barely old enough to be away from home. Accusations demand investigation.

None of us have the superpower of the wizard Merlin in Sir Thomas Malory’s 15th century novel, Le Morte d’Arthur — the foundation of the Arthurian legend. Merlin lived backwards which allowed him to be certain of the future. He knew that Arthur’s marriage to Guinevere and his love for his best friend Lancelot would create a triangle which would ultimately lead to the destruction of the kingdom but could do nothing to prevent it.

For the rest of us, we have to play out the future in real time, but ironically have more power than Merlin, for all his magic. We can change the future if we act.

I also interviewed Tom Nichols, professor at the U.S. Naval War College, adjunct professor at the U.S. Air Force School of Strategic Force Studies, and the author of Our Own Worst Enemy: The Assault From Within on Modern Democracy, to discuss the fallacy of critics of liberal democracy on both the left and the right. We have gone from The Greatest Generation to Brave New World in a remarkably short period of time. Rather than make sacrifices for America, we sacrifice each other.

We have become an attention economy and fight over a new status — the status of our politics, our environmental footprints, our level of alleged wokeness, our anti-racism, our levels of self-aggrandized righteousness, even our own unchangeable pasts. Three-quarters of college students now say they refrain from sharing their actual opinion for fear of public shaming and worse. As matriculated adults, we no longer do either, unless it is through the perceived anonymity of our social channels. “Shame, shame” we write with so much frequency as to suffer carpal tunnel. Judgment is the new opiate of the masses.

Being effectively human is such a hard thing to do, especially in the moments that matter most. In our rush to eliminate debate and criticism we have missed the fact that the collateral damage is an ordered society. Debate and constructive criticism are neither dangerous, toxic nor patriarchal. They are the foundation of education, the rule of law and democracy. They are how we arrive at the best decisions, how we learn and how we change. In the 1960s we marched and sang “Give peace a chance.” This is how we handled peace?

I also interviewed Dr. Lindsay Chervinsky, author, historian and Scholar in Residence at the Institute for Thomas Paine Studies at Iona College and author of The Cabinet: George Washington and the Creation of An American Institution. Dr. Chervinsky’s book is receiving rave reviews, not the least of which from noted historian Ron Chernow. She discussed the power and risks of norms and customs, the fact that the Founding Fathers did not believe in “originalism” — George Washington, for example, was already debating the intent and power of the Senate in his first six months in office — how the first Cabinet worked and the divisive power of their differences.
It turns out that much of what we think we know about early American history is often inaccurate. As William Faulkner wrote, “The past is never dead. It’s not even the past.”

What we are certain of is often wrong and what we don’t know, our subconscious does. Let us be less interested in changing everyone else and spend more time on ourselves so we can be ready for our own golden moments rather than criticizing everyone else for theirs.

Enjoy the shows.

Richard Levick

Listen to Is RICO Next for Larry Nassar’s Enablers?

Listen to Our Own Worst Enemy

Listen to The Cabinet — George Washington and the Creation of An American Institution
The Great Middle

“What you do not wish for yourself, do not do to others.”
— Confucius

From my days in Hebrew School, I always thought Hillel the Elder had said this first, but it turns out that Confucius, who celebrates a birthday today, wrote it about 500 years before Hillel. It is the Golden Rule, though I am not sure how many of us follow it very closely. We tend to judge others by what they say and ourselves by what we intend.

In law school, we learned that the law was not supposed to be outcome determinative but instead, to be applied neutrally so that the precedent established by the past could apply evenly to the future. I believe this is the highest calling of the Supreme Court, though it increasingly appears — as Chief Justice Roberts loses his argument on the criticality of process — to be a standard that this Court has little interest in meeting. A politicized Court will have its pyrrhic victories, but at exorbitant expense.

Jefferson’s idealization of the First Amendment was based on Socratic debate. Through the parlay of ideas we reach a higher, compromised understanding. Not something we do very well anymore in an atomized, increasingly technological world which monetizes disagreement.

I was thinking a lot about these issues more particularly this past week after three shows I did on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal.

The first was with author and old friend Charles Slack, who ghostwrote one of my books and is the author of four other books, most recently, Liberty’s First Crisis: Adams, Jefferson and the Misfits Who Saved Free Speech. It is the story of how John Adams — a Founding Father, mind you — would find the First Amendment too robust once he attained power as President in 1796. He would sign the Alien and Sedition Act of 1798, outlawing seditious
speech critical of the government. For those who cling to the legal theory of “original intent,” please note that a mere seven years after the 1791 adoption of the First Amendment, the Adams administration felt sufficiently threatened by their opposition that they passed the Act. It placed even alcohol-induced criticism overheard by a barkeep as ‘scandalous and malicious’ and worthy of imprisonment. For the feminists among us, it is worth noting that my personal hero, Abigail Adams, was a significant proponent of the Act. None of us, it seems, meet our current standards of perfection.

It is not too fine a point to make that if the law were not overturned, the United States of America would not exist. No unfettered freedom of speech, no City on the Hill.

The 1798 Act was driven by a new government too insecure to face criticism for fear it would rise into a serious political challenge. While the law was overturned a mere two years later, the fear remains. Today’s hottest political divide is driven by a conservative minority who increasingly finds it necessary to limit the voting power of those who do not look like them and by a left who describes unliked speech as “dangerous” and therefore cancelable. One is suppression by the government; the other, prior restraint by the masses. Democracy thrives in the middle.

On another equally sensitive issue, I was reading a recent column by Gary Abernathy, a contributing columnist for The Washington Post, a self-described conservative, and publisher and editor of the Hillsboro, Ohio Times-Gazette, which was one of the few newspapers to endorse Donald Trump for president in 2016.

He wrote a column called Tighter abortion restrictions may really indicate the law is finally catching up to science, that was neither for nor against abortion but raised the question of science and viability — a central tenet in the Roe v. Wade decision. In essence, the 1973 Court ruled that without viability, a woman’s right to choose was largely unencumbered. With today’s science able to roll back the viability clock further and further Gary wondered if the reasoning on Roe can survive.

My own view of abortion is more closely aligned with the late Supreme Court Justice Ruth Bader Ginsburg. Courageously, she said at her 1993 confirmation hearing, “The decision whether or not to bear a child is central to a woman’s life, to her well-being and dignity. It is a decision she must make for herself. When government controls that decision for her, she is being treated as less than a fully adult human responsible for her own choices.”

However, my fear of the limits of the majority opinion in Roe is based on Justice Sandra Day O’Connor’s critique of Roe in a dissenting opinion in a 1983 case around the prediction that the date of fetal viability was inevitably moving backward due to the advancement of science: “The Roe framework is clearly on a collision course with itself.” Texas notwithstanding, that moment seems to have arrived.

The third show of the week was with Hugh Hurwitz, who was appointed to serve as the Acting Director of the Federal Bureau of Prisons in May 2018. In this role, he was responsible for leading the operation of one of the largest correctional systems in the world, including oversight of 122 prison facilities, 36,000 staff and approximately 177,000 inmates.

For a time, though separated by a few years, our careers were somewhat parallel, with both of us graduating from The American University’s Washington College of Law and clerking at the BOP. What struck me most about the show was how much Hugh would at times sound almost like an ACLU prisoners’ rights attorney. His belief in the core of the mission — 80% of federal prisoners returning to society — was at the center of all of his comments. And, he noted, this is only done through opportunity, resources and programs.

The three shows reminded me that democracy is best brewed in the middle; that speech, however uncomfortable, is not dangerous; and that all of us deserve second chances, if not more.

After Justice Thurgood Marshall’s retirement in 1991, Sandra Day O’Conner published an essay about her deep appreciation of and affection for Justice Marshall with whom she had served for ten years. Justice Marshall was “constantly pushing and prodding us to respond not only to the persuasiveness of legal arguments but also to the power of moral truth.” Good advice for all of us.

Enjoy the listens.

Richard Levick

Listen to Cancel Culture 1798

Listen to Science & Abortion

Listen to The Shawshank Redemption, Cool Hand Luke & Brubaker Mythology
The Message vs. The Truth

“Manners are a sensitive awareness of the feelings of others. If you have that awareness, you have good manners, no matter what fork you use.”

— Emily Post

Early this morning I had the opportunity to give a keynote address and moderate a panel for the Law Firm Marketing Summit in London on Brand Authenticity: The Message vs The Truth. It was, of course, a great deal of fun, with a terrific panel on Multidisciplinary Perspective on Brand Authenticity.

We make our money usually by defending companies and countries in the court of public opinion, so I am reluctant to criticize companies and feed the beast; but truth, as they say, demands honesty. If there is a “versus” between your truth and your message, you are not authentic. Fish rots from the head and so do organizations. There is no more current example of a company struggling with the versus between its message and the truth than Facebook, which is having a bad fortnight, including a long outage, a brilliant and highly critical multi-part Wall Street Journal series, leaks, an exceedingly articulate and sympathetic whistle blower, congressional hearings and more.

Facebook has been using the same communications playbook for years, which includes three parts: 1) Denial and shock; 2) Diversion — ‘Look at all the good things we are doing;’ and 3) A promise to do better the next time. A promise seldom kept.

If Facebook was a movie, it would be Casablanca with Captain Renault on an endless reel. “I’m shocked, shocked to find that gambling is going on in here!” Is it any surprise that Facebook’s algorithms are modeled on gambling algorithms?
If we want to come across as authentic, we have to be, well, authentic. This means that communications is never about spin, it is about fixing the problem — saying and doing the right things.

The key question at our session and for many large defense law firms is, “We are increasingly criticized for the work we do and the clients we represent. Do we stay neutral or do we evaluate our work politically?”

I keep thinking of those law students at Harvard, Yale, New York University and other elite law schools who last year threatened to boycott Paul Weiss because they represent Exxon, a contributor to — and for a long time, a denier of — global warming. Even though I spent my first career as an environmental lobbyist and community organizer, working on dozens of issues designed to protect the environment, I found myself offended by, rather than sympathetic to, the students’ protests.

The difference between democracy and mob rule is the rule of law. And the bedrock of the rule of law is that everyone deserves legal representation — a tenet so early recognized as essential to our Republic that John Adams defended Captain Thomas Preston and the eight British soldiers accused of murder in the Boston Massacre. Even though Adams bitterly hated the British cause, his commitment to justice and due process for all prevailed.

Like the opening shot at the battles of Lexington and Concord, the students’ protest was a shot heard around the law firm world today. Increasingly, large defense law firms are asking if their own brands will be tarnished by their clients’ reputations. This is an issue that companies need to wrestle with. But law firms?

What, pray tell, would Paul Weiss have done decades ago about its groundbreaking representation — often pro bono — in Brown v. Board of Education; of Thurgood Marshall; on early LGBTQ rights cases? They are the first law firm where Jews and gentiles practiced together. That’s right. This too was a barrier that needed to be broken. At the time, unpopular issues, all.

Were we to judge the protesting students by their own criteria — one strike and you’re out — we would find that they singled out a pioneering law firm that — long before it was popular — stood for civil and gay rights and helped to end religious discrimination in the practice of law. Sometimes the mirror is more powerful than the sword.

What can defense law firms do? The recent letter, quickly signed by more than 60 national firms condemning lawsuits targeting special purpose acquisition companies (SPACs), is an example of how the legal industry can come together...and quickly.

Until then, global law firms will make their representation decisions on a variety of factors — ethics, conflicts, skill, etc. — but law firms should steer away from making decisions based on whether something is politically popular. Already, approximately three-quarters of American college students are afraid to say what they are really thinking for fear of being castigated by those who disagree with them politically — an incredibly powerful form of prior restraint, also known as mob rule. We will rue the day when law firms make their client decisions under the same pressures. Will no one take the next Brown?

Each of the panelists — and the Editor-in-Chief of the Global Legal Post — was kind enough to appear on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal.

Bendita Cynthia Malakia is a former large law firm lawyer and in-house counsel at two global financial institutions who now leads Hogan Lovells’ global DEI strategy with the aim of ensuring that historically underrepresented professionals can thrive. She is a catalyst for underrepresented colleagues to be their authentic selves in the workplace and for others to structure for their development and success, including working across differences to create community — by building systems, inspiring investment and cultivating connections.

Legal rebel Michele DeStefano — Professor at the University of Miami School of Law, affiliated faculty at Harvard Law School Executive Education and Founder and Director of LawWithoutWalls — discussed the practice of law, legal education, law firm recruitment and the importance of humility, inclusivity and risk.

James Batham, a partner at Eversheds Sutherland in London, discussed his approach to selling long term “annuity” clients, which involves active listening and a “you, we, I” approach, which centers on the clients’ needs and not the lawyer’s expertise. As James says, “You can never ask the client enough questions.”

Moray McLaren, founder of Lexington, a premier global legal consulting firm, talks about the latest challenges for law firms including resilience, price sensitivity, doing too
well during COVID-19, an age of unhappy but well-compensated associates, new competition and more.

Kenny Robertson is the In-House Lawyer of the Year at the 2018 Law Awards of Scotland who heads the Outsourcing, Technology & IP legal team at the Royal Bank of Scotland. He spoke candidly about what law firms get right and get wrong in their effort to be more technologically savvy and how they can improve their services to clients.

Global Legal Post Editor-in-Chief John Malpas, a longtime British, European and Chinese law firm journalist, discussed law firm challenges from fees and growth to ESG and DEI. He also spoke about the issue of law firms increasingly being criticized or lauded for the positions they take or don't take.

“Seek first to understand, then to be understood.”

— Stephen Covey

Enjoy the shows.

Richard Levick

Listen to Getting DEI Right

Listen to Michele DeStefano, Legal Rebel

Listen to Brand Authenticity and the Law Firm

Listen to Law Firms and the Next Frontier

Listen to The Struggle for Law Firms to Get Technology Right

Listen to The View From Europe
We Are All Elizabeth Holmes

“All we are saying is give peace a chance
All we are saying is give peace a chance”
— John Lennon

Growing up, watching David Carradine star in the television show Kung Fu in 1972 — a contradiction in and of itself as television networks were then unjustly afraid to have Asians star in Asian roles — was my first introduction to Buddhism. It would expand over the years with reading and 365 daily meditations, though it would never evolve into a full conversion. I am just an endless student. I still find it remarkable that I can read the same meditation year after year and discover something different in it each time I read it. Nothing changes like perspective.

If I become fully devoted to Buddhism, will I never again walk on the grass for fear of the insects I would kill? This realization is made worse by the fact that we can now record the music that plants make as they synthesize, converting light into chemical energy. Our very being is damaging to something.

Is it enough to remove the insects from my home to the outside and to have learned from this repeated act of gentleness that we are all victim and victimizer? All of us. We are crushed by the patriarchy and, simultaneously, part of it, crushing others.

How much privilege we believe we have is dependent on how broad a view of the world we take. Our worst days are often better than most peoples’ best.

Do we listen to the cries of others with the same level of sympathy and empathy that we have for ourselves and those that look and sound like us? Is our commitment to diversity about justice or power? Is the conversation in our heads about self-justification or empathy?
When John Lennon — who would have turned 81 over the weekend — was writing “Give Peace a Chance” in 1968, he was in the middle of a contentious divorce with Cynthia Lennon and offered her a paltry and stifling settlement. John Lennon, it would seem, wasn’t all that different from the rest of us. “Do as I say, not as I do.”

Globally, we are going through a challenging period, trying with great intent to make amends for past sins, yet simultaneously ranking our victimhood in the hopes of showing that we are victims only — because of our age, race, sex, sexual preference, economic status, environmental footprint, geography, etc. — and never, simultaneously, victimizers.

Life isn’t that simple. Being a good human being is an endless journey, like walking across the grass and doing no harm.

Eventually, I think, we will make it to Ten Forward — the intergalactic crew lounge aboard the USS Enterprise, on Star Trek — where we all largely love and accept each other for who we are, not the categories we put ourselves in or the labels we proudly wear. But it is, unfortunately, going to take a long time.

About 20 years ago, I met journalist Vivia Chen in San Francisco, in the early days of the legal journalism boom. I always liked her and respected her work, so I make sure to read her weekly Unfiltered column in Bloomberg Legal. Her recent column — “Theranos’ Elizabeth Holmes Plays the Privileged White Female Card” — is equal parts brilliant and courageous. I was terrifically pleased when she agreed to appear on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal to delve deeper.

The column (and her role on the podcast) is a tour de force and well worth the brief time investment. In a nutshell, she discusses Ms. Holmes’ chameleon-like ability to go from Silicon Valley can-do wunderkind to victim of the patriarchy, just in time for trial; from villain to victim at the speed of a tear.

How did she entice Henry Kissinger, George Shultz, Sam Nunn, James Mattis, David Boise, Rupert Murdoch and other powerful white men to empower her and her fantastic yet unproven technology? In a flash, she plays her privileged white female card, employing the “Svengali defense” — my ex-boyfriend of color (and former Theranos president and COO, Ramesh “Sunny” Balwani) made me do it.

I am no fan of Ms. Holmes and have witnessed and been victim to enough empty suits and worse over the years to see the personality pattern of charlatans. It is, of course, nothing that is limited to only one sex, race or nationality, and that is exactly the point. One of the things that impostors prey on is that for most of us — including smart, busy people — “due diligence” consists only of the “tribal test.” If someone went to similar schools, has advanced degrees, knows the same bankers and lawyers, speaks our coded language, and, of course, has family connections (Ms. Holmes is the daughter of a former Enron executive), we accept them and their claims as legitimate. It is not unusual for people to put more effort into uncovering the background of a blind date than they do a potential business partner. As the old saying goes, “The charming are easily charmed.”

When I was in graduate school and a community organizer, I had a housemate who was a public defender. As he often said, “If you were the defendant, wouldn’t you want the most sympathetic version of yourself to come out at trial?” He was right, of course, and at one level I understand exactly what Ms. Holmes is doing, going from the female Steve Jobs — down to the black turtleneck — to someone who makes sure her new infant’s diaper bag is always visible to the jurors.

She is a contradiction inside of an enigma. You’ll get no defense here. What I wonder about is if we will look at her and wag our fingers “tsk, tsk, tsk,” or if we will reflect and look at our own privilege and paradoxes. We are all playing roles. At the end of the day, when we are truly alone, what are our unguarded thoughts? As my late law professor Burt Wechsler would say, “We are all faking it, doing the best we can with what we know at the time.”

There are some, like Ms. Holmes, who apparently try to monetize our triumph of hope over experience. Hopefully, none of us are Elizabeth Holmes. And equally, with the speed with which she has adorned the victim card, each of us knows that she isn’t all that different from us.

There is a contradiction in the Old Testament — if God is everywhere, then She is in the good and the bad. Judaism addresses this in part in Liturgy, the daily prayer before sleeping. “I hereby forgive everyone who offended me or sinned against me.” In the act of forgiving others, we free ourselves and we free their souls to make full atonement. Sound advice.
I keep trying to imagine the courage and other-worldly wisdom of Ruby Bridges, one of four African–American children to integrate schools in New Orleans in 1960 after Brown v. Board of Education. Once, when she was six and surrounded by an angry white mob, she knelt to pray for the mob. At six, how was she so wise? After so many millennia, how are we not?

“Ah, but I was so much older then
I’m younger than that now.”
— Bob Dylan, “My Back Pages”

Enjoy the show.

Richard Levick

Listen to Vampirette — A Journalist’s View of Theranos’ Elizabeth Holmes
Let’s Go To Blockbuster Tonight

“Regrets, I’ve had a few
But then again, too few to mention
I did what I had to do
And saw it through without exemption
I planned each chartered course
Each careful step along the byway
But more, much more than this
I did it my way”
— Paul Anka, “My Way”

Between October 19, 1985, and January 12, 2014, Blockbuster went from a single mega-store with 8,000 tapes — unheard of at the time — to over 9,000 stores, employing more than 84,000 people. David Cook, its founder, had glimpsed the future in the limitations of the small, locally owned neighborhood video stores and knew there was a better way. Subsequent owners would expand Blockbuster beyond his wildest dreams, but none could appreciate the future. Pay per view, on demand, Amazon and Netflix — even though a young Reed Hastings had come to Blockbuster hat in hand asking to be bought — would turn the omnipresent blue and yellow signs into antiques. Sometimes we can see what’s next and sometimes we cannot even read the present.

With the exception of Merlin in the Arthurian legend Le Morte d’Arthur — who lived backwards so that his past was our future — we’re all guessing, doing the best we can to read the tea leaves. The epithets of formerly great companies that helped invent the future only to become too comfortable with the present are a reminder to us all.

“Can we all get along?”

LEVICK
Sears, whose annual catalog was first released in 1888, served as a model for the internet, seemingly providing endless access to the world of commerce by simply turning a page. Five generations of children grew up waiting in anticipation of the annual phonebook-sized catalog every summer so they could circle their wish list for Christmas.

Radio Shack had a 30-year head start on Apple and ironically was the store where Steve Jobs and Steve Wozniak bought their Tandy computer to connect to a television and create the first visual computer. “You’ve got questions, we’ve got answers,” although apparently not about anything most people are interested in buying anymore.

Avon, which all but invented multi-level marketing and provided whole generations of women a path to entrepreneurship, now struggles with relevancy.

Kodak, which had the patent on digital photography, making too much money from film development to consider what was next.

The road to success is littered with the skeletons of formerly great companies who invented the future only to lose their way.

What would happen if we could live more like Merlin, and see the future? This week on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, I interviewed five trailblazers — people who see the future for the benefit of the rest of us:

Marisa Calderon, Executive Director of the NCRC Community Development Fund, Inc. (CDF), a U.S. Treasury-certified community development financial institution that supports economic mobility and bridges the nation’s racial wealth gap, expands access to affordable homeownership, and provides loan capital for Black-, Brown- and woman-owned businesses to help them thrive.

Sally Schmidt, President of Schmidt Marketing and the founder and first President of the Legal Marketing Association (LMA) (formerly called NALFMA), which revolutionized law firm marketing.

Andrew Gratz, Associate General Counsel at LyondellBasell, on what in house counsel want, specifically on ESG and how ESG demands by multiple constituencies are going to change in the near future.

Jim Pattillo, a partner with Christian & Small — a member firm in the Primerus law firm network — and a veteran of more than 70 trials to verdict in both state and federal courts, on litigation trends since the start of COVID.

And finally, Kailash Ambwani, Chief Executive Officer at Constella Intelligence, on what companies can do before there is a breach to reduce risk. Constella is a leading global Digital Risk Protection business that works in partnership with some of the world’s largest organizations to safeguard what matters most for each company and defeat digital risk. While most discussions of breaches are about what to do afterwards, Constella focuses on providing the intelligence to help reduce risk and prevent cyber-attacks.

It seems so much of our lives are like the old FRAM oil filter commercials — “You can pay me now or pay me — a whole lot more — later.” Why not spend some of today eliminating future risks?

Robert Zemeckis, who — along with Bob Gale — made the famous Back to the Future movie trilogy, found accidental inspiration for the film when visiting his parents in St. Louis and looking at his father’s high school yearbook. Sometimes we have to look backwards to see forwards.

Since the theme music scored by Alan Silvestri for Back to the Future was instrumental, we’ll need to go to another movie — The Rocky Horror Picture Show — for the music to take us out.

“It’s astounding
Time is fleeting
Madness takes its toll
But listen closely
Not for very much longer
I’ve got to keep control
Let’s do the Time Warp again
Let’s do the Time Warp again”

— Richard O’Brien, “Time Warp”

Enjoy the listens.

Richard Levick

Listen to Bridging the Nation’s Wealth Gap
Listen to The Founder of Law Firm Marketing
Listen to Getting ESG Right and Why So Many Are Getting It Wrong
Listen to COVID-19’s Impact on Litigation Trends
Listen to Closing the Cyber Barn Door Before the Horses Leave
“When does their glory fade?
O the wild charge they made!
All the world wondered.
Honour the charge they made!
Honour the Light Brigade,
Noble six hundred!”

— Alfred, Lord Tennyson

Rode the 600.

Alfred Tennyson’s eloquent poem “The Charge of the Light Brigade” bears profound witness to how the miscomprehension of British commanders during the Crimean War in 1854 fatally led the now-fabled brigade to mistakenly charge Russian troops by riding down the hill instead of up.

“Forward, the Light Brigade!”
Was there a man dismayed?
Not though the soldier knew
Someone had blundered.
Their’s not to make reply,
Their’s not to reason why,
Their’s but to do and die.
Into the Valley of Death
Rode the six hundred.”

And only 400 rode home.
When does glory fade? Far too fast for us mere mortals. Time is a fickle master, caring little for our own values or perspectives, constantly moving on, measuring itself in eons even as we're staring down at our watches.

We first safely acknowledge human mortality when someone famous, from our grandparents’ or parents’ generation, passes away. Someone we didn’t know but knew of. We even make a joke of it, teasing our elders about how old they are after a famed singer, actor or athlete from their era passes. But as we age, it is no longer a joke when older generations begin to die but rather a signpost of the road ahead. When people only half a generation ahead of us pass, it is a shocking and sobering event. We wonder, do we mourn for them or for ourselves?

Life is short. May we never forget that we stand on the shoulders of those who have come before us.

One such giant was Robert Denny, who died this past week at 88. I recall vividly our first telephone conversation. I remember his accessibility, kindness and thoughtfulness. For 45 years he provided management, marketing and leadership services to over 400 law firms and legal organizations throughout America. He was one of the great pioneers of law firm marketing, but I do wonder how many of today’s law firm marketing professionals recall his wisdom, or even his name.

He was already a legend when I came into the legal marketing profession in the late 1980s, a decade after the Supreme Court ruled in Bates v. Arizona that state bars could not prohibit law firms from advertising and marketing. Bob’s monthly Legal and Corporate “Communiques,” reporting on “What’s Hot and What’s Not in the Legal Profession,” was a must-read for three decades.

I am lucky to have worked with many of the early giants of the profession — Burkey Belser, Jay Jaffe, Sally Schmidt, Gerry Riskin, Diane Hartley, Mike O’Horo, Elizabeth Lampert, Deborah McMurray, Larry Smith, and the list goes on. I am blessed.

One of the things a long life teaches you is that tomorrow is promised to no one. Get in your kindness and heartfelt praise now. It may be Halloween this week but there’s no guarantee we can speak with the spirits.

This week on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal, Good Comes First authors Mark Babbitt, President of WordIQ, and Chris Edmonds, founder and CEO of the Purposeful Culture Group, lead a much-needed dialogue on how to build great cultures. How do we find balance in the workplace when angry and judgmental labels are thrown around to the point that they lose their meaning even as the underlying problems remain unaddressed? How do managers and employees work together to take responsibility and improve culture? Is your leadership microagression in disguise? Are accusations of micromanaging really moments of misunderstood mentoring? The insights that Mark and Chris provide will help professionals on both sides of the equation manage the 21st Century workplace.

We cannot undo all that Facebook has wrought with its deliberate monetization of anger but perhaps we can defuse the vitriol with one kind comment at a time. Listening instead of speaking, patiently asking “What is driving that comment” rather than simply firing back with dismissive judgments and harsh criticism. We judge ourselves by our intent but others by their words. Perhaps it is time to reverse the process? Kindness begins with us.

When does glory fade? Not for at least one more day if I can help it.

“‘There’s a grief that can’t be spoken
There’s a pain goes on and on
Empty chairs at empty tables
Now my friends are dead and gone
Phantom faces at the window
Phantom shadows on the floor
Empty chairs at empty tables
Where my friends will meet no more”

— Herbert Kretzmer, Alain Albert Boublil and Claude Michel Schönberg, “Empty Chairs at Empty Tables”

Enjoy the show.

Richard Levick

Listen to Good Comes First
Paradise Lost?

Years ago, when we were representing the University of Pittsburgh School of Law, we conducted a national study of retired judges to examine the influence of media upon their decisions. No longer contained by the sanctity of their robes, they were free to be more transparent — “Of course we were influenced by what we read in the media,” came the unvarnished responses. The judiciary may be the Third Estate in the realm, but it is certainly affected by the Fourth.

Some years earlier, when I was in law school and on a national moot court team, I spent a month in the stacks of the law school library, searching for “the truth.” Two decades before 9/11, the question that year was about airport searches. Computers were in their early days and the Web was not yet in civilian use, so days and nights were spent hunting and reading one case after another: legislative histories, case notes, dicta, and anything else I could find. I was certain that if I kept reading enough, going back far enough in time, that the wisdom of stare decisis — precedent — would, like the apple in Genesis, reveal itself. The hunt for the truth is intoxicating and the farther we go back in time, the more we believe that there was a period, free of politics, when wisdom reigned and Socratic questioning revealed perfection.

History has a way of garnering unanimity in a way that eludes the present. President Abraham Lincoln? He had staunch opposition everywhere, including in his own cabinet and among some of his generals, let alone the Confederacy. Today we are effectively all Lincoln fans.

Am I alone in my faith in the mythology that truth and justice percolate from time immemorial and that Karma keeps score? I may have been intoxicated by the weathered bindings and yellowed pages of hundreds of law books in my search for ultimate truth, but I think most of us share the illusion of ancient wisdom. This creation myth is everywhere. Jesus and his disciples. Moses and his tablets. Buddha and the tamarind tree. The Founding Fathers. Those were the days, we think, when certainty reigned.

If my illusion of finding ultimate truth was crushed by the stacks in that now long-gone law library, I am not alone. We revere the Founding Fathers as if they were apolitical. As if the clarity of their mission and their break with Mother England was always evident. In
truth, only about a third of colonists supported independence. Looking backwards, we are certain they had it all figured out. There is even a judicial philosophy — first discussed about 50 years ago in conservative legal circles — referred to as “Original Intent.” It is articulated with reverence but applied, of course, with fickleness. It is an argument you only hear when the original intent neatly aligns with your current position.

What would happen if we read more than just the popular history books’ take on the Founding Fathers? For In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal carried by multiple media partners, I recently interviewed a film maker and two scholars on related issues, including Richard Hall, Director and Co-Producer of the four-part series, “Confounding Father: A Contrarian View of the U.S. Constitution”; Dr. Marshall DeRosa, Professor of Constitutional Law and Judicial Process at Florida Atlantic University and author of The Confederate Constitution of 1861: An Inquiry Into American Constitutionalism; and Dr. Allan Lichtman, Distinguished Professor of History at American University and author of the new book, Thirteen Cracks: Repairing American Democracy after Trump.

The U.S. Constitution is the longest-lived constitution in the world, but even at its founding in the summer of 1787, it had many critics. Compromises led to the Electoral College, the three-fifths clause, the fugitive slave clause, the continuation of the African slave trade for 20 years and an ineffective and nearly impossible to complete impeachment process, to name a few. What would happen if we paid attention to the original intent of the delegates who had opposing points of view? If a number of them, including Robert Yates and John Lansing of New York and Luther Martin of Maryland, hadn’t departed Philadelphia earlier than the September 17, 1787 signing day, it might be a very different document.

In the words of eminent revolutionary era historian Gordon Wood, Luther Martin was “full of predictions and most of them came true...” Martin was, among other things, strongly antislavery, anti-empire, and foresaw Washington, D.C. becoming isolated nearly two hundred years before the term “inside the Beltway” became popular. Had he and others prevailed, we likely would have been better served and our politics today would be entirely different.

As filmmaker Richard Hall wrote after the film, “We are currently mired in absurd debates over criticisms of the more revered Founding Fathers. Our mantra during production of the film was: The more we elevate the founders, the more we diminish ourselves.”

In the show with Dr. DeRosa, we discussed the unknown world of the Confederate Constitution. Dr. DeRosa shocks us with the things we get wrong about this little-studied document, the unknown or forgotten parts of Northern hypocrisy, the fears of Southern emergence and the efficiency of the executive in the Confederate Constitution.

On Real Washington, the weekly podcast I co-host with Michael Zeldin of That Said with Michael Zeldin on CommPRO, we interviewed Allan Lichtman, Distinguished Professor of History at American University and author of the wildly successful series, The Thirteen Keys to the Presidency and Predicting the Next President: The Keys to the White House. He has accurately predicted every U.S. presidential election since 1984. He discussed his latest book, Thirteen Cracks: Repairing American Democracy After Trump.

We are, like our forefathers and foremothers, imperfect. Most of us are just trying to do the best we can with what we know at the time.

Early this morning, like many mornings, I was hiking in Rock Creek Park, a national park I have hiked literally thousands of times over the years. There are still some of its 3,700 square acres I do not know well, but many paths I know blindfolded. Despite this familiarity, I am constantly amazed by the fact that each time of day, each season or reversing direction radically changes perspective. The things we notice — the sights, sounds and smells — all change. It is as if we are somewhere else entirely.

We are all on a journey with nothing certain but our ultimate destination. Maybe we are all on similar paths and it is just our perspectives which differ? A different time of day, a different season, a change in direction, and with that simple change in perspective, we might see the world the way others do.
Having gone blind in 1652, John Milton wrote his masterpiece, *Paradise Lost* — the twelve-volume poem about the fall of Man, the temptation of Adam and Eve and the expulsion from the Garden of Eden — entirely through dictation with the help of friends.

“A mind not to be changed by place or time.
The mind is its own place, and in itself
Can make a heau’n of hell, a hell of heau’n.”

Enjoy the journey.

Richard Levick

*Listen to A Front Row Seat at the 1787 Constitutional Convention*

*Listen to The Unknown World of the Confederate Constitution*

*Listen to Thirteen Cracks: Repairing American Democracy After Trump*
The Miracle Workers

All my life’s a circle;
Sunrise and sundown;
Moon rolls thru the nighttime;
Till the daybreak comes around.

It seems like I’ve been here before;
I can’t remember when;
But I have this funny feeling;
That we’ll all be together again.
No straight lines make up my life;
And all my roads have bends;
There’s no clear-cut beginnings;
And so far no dead-ends.
— Harry Chapin, “Circle”

At dinner the other night with an old friend, an executive at another public relations firm, at a favorite local restaurant, we had a young but old-souled waitress who was as kind as she was efficient and who joined us for a brief conversation as the dinner rush slowed. She was sharing her background which included graduating from Howard University, where, she revealed, her father had graduated a generation before and had played soccer in the early 1970s. I asked, “When Howard had one of the greatest collegiate soccer dynasties of all time?” “Yes,” she responded, to which I started citing chapter and verse of those great teams. Two had won National Championships, though one would be revoked by the NCAA who it is hard to imagine was inspired at the time by anything other than racism.
Back then, there was a baseball *Game of the Week*, Sunday football, and the *Wide World of Sports*. No ESPN. You either watched it live, or in the case of the Howard Championship Game of 1974, you watched it on PBS. I was just 16, and watched it on a grainy, black and white screen at my grandparents’ house in New York. Up until then, the only thing I really knew about soccer was Pelé, but now I wanted to play. And I would, for the graduate team at the University of Michigan—touched, unknowingly, by her father.

Later in the conversation, we asked her what she wanted to do next. She talked of her love for public relations, which is when my dinner companion and I immediately provided her with our contact details — “Let us know however we can help. And please tell your dad that he inspired far more people than he could ever have imagined.” We would have helped anyway, but her father was “paying it forward” a half-century early.

 Isn’t that the way it is in life? We have our golden moments and our darker ones, when we ask ourselves the existential questions. Seldom do we realize that our wings can resonate as a tsunami countless miles and light years away. We are ignorant of our own inspiration.

The ragged pages of long dead authors, poets and theologians inspire me daily. How can I tell their ghosts they should have never doubted? Did her father know while on the pitch that the results of his sweat and toil would not only be an NCAA championship but to inspire a suburban white kid who in turn would want to help his not-yet-born daughter? Look behind your shoulders. That is where you will find your wings.

Going back even further, when I was a young child in the 1960s and the *TV Guide* was still a mystery, my sister, two years older, was the wellspring of wisdom. She had shared with me the names of three of her favorite movies — “*Sorry, Wrong Number*,” the tragically long-forgotten “*The Next Voice You Hear*” (with Nancy Davis, later Nancy Reagan) and “*The Miracle Worker*.” One year, we got really lucky, and “The Next Voice You Hear” was playing during the holidays, when we were staying at our grandparents so we could stay up late (until 11!) and watch it straight through while eating Jiffy Pop popcorn. That was living!

I saw each of those movies only once, though I have listened to “*Sorry Wrong Number*” as a *radio adaptation* so many times I can hear every syllable of Agnes Moorehead’s growing anxiety as it elevates to panic by the end of the evening. Those movies taught me about regret, perseverance, love and, of course, miracles.

The other voice I so often hear is my late father’s, with his wise words resonating long after his passing. Like the poem *Desiderata*, he taught me to “Go placidly amid the noise and the haste,” and to never compare myself to others because there will always “Be greater and lesser persons than yourself.” Be grateful and thankful, as there are always those who have far less with far greater burdens.

It is why the water *scene* in “*A Miracle Worker,*” with Anne Bancroft playing the indefatigable teacher, Anne Sullivan teaching Helen Keller, blind and deaf since infancy due to scarlet fever, played by Patty Duke, resonates with me through the decades. The impossible becomes possible. Anne Sullivan, blind herself, was completing the cycle.

My father’s lesson is, unfortunately, lost on most of us most of the time. We turn miracles into expectations within minutes. Donald Trump, Operation Warp Speed and multiple pharmaceutical companies shortening the development of a vaccine from an average of 10 to 15 years to 10 months; Joe Biden overseeing the process that has 192 million Americans vaccinated in a year? “Ho hum. Next?” No wonder his approval rating is under 40%. We don’t want presidents, we want gods.

We limit our appreciation of miracles to the parting of the seas and the burning of the bush. What if we stopped to see the miracles all around us? To live in a state of grace, where we are appreciated rather than judged? To play soccer with the realization that a teenager watching would remember that moment for more than half a century?

This week, on *In House Warrior*, the daily podcast I host for the *Corporate Counsel Business Journal*, I hosted a number of miracle workers who make the world a better place.

Dan Kracov is co-chair of the Life Sciences and Healthcare Regulatory practice at Arnold & Porter, which was recently named the top healthcare practice in the country by Law360. For decades, he has been one of the foremost Food and Drug Administration lawyers in the country, with his expertise in critical regulatory matters...
widely recognized by multiple legal publications. He assists pharmaceutical, biotechnology, medical device and diagnostic companies to negotiate challenges relating to the development, approval and marketing of FDA-regulated products, including the accelerated approval of drug products for serious diseases.

Utah Attorney General Sean Reyes and my cohost Lori Kalani, co-Chair of the State Attorney General Practice at Cozen & O’Conner, discussed how the Federal Trade Commission (FTC) and attorneys general have partnered over the years to combat anticompetitive, unfair and deceptive trade practices and how this relationship is evolving. What impressed me about the Attorney General was his sincere and endearing ability to reach across the aisle to get things done.

Janelle Sam, co-founder of Cambium Consultants, along with my cohost Derede McAlpin of LEVICK, discussed how her company uses artificial intelligence to significantly increase the efficiency of identifying expert witnesses for complex litigation. Cambium is a proprietary online platform — using needle-in-the-haystack capabilities — that makes it far easier for attorneys to find the precise experts they are looking for and for experts to be found.

Take a look. There are miracle workers all around you. And while you are at it, try out your own wings. You have no idea who is watching. Or, who half a century later, will return the favor.

Enjoy the shows.

Richard Levick

Listen to The Miracle Worker

Listen to A State Attorney General’s Perspective

Listen to When You Can’t Afford to Be Out-Experted
This is the Moment

“Our ability to reach unity in diversity will be the beauty and the test of our civilization."
— Mahatma Gandhi

About 30 years ago or so, I was in the pre-op room for another in a long series of foot and leg operations — inconvenient and painful, but never life-threatening. I was in there with several other patients, including one elderly man, waiting for our operating rooms. Gently strapped to one side, facing him and a cinderblock wall painted one of those bulk discount colors that schools and hospitals are famous for, it occurred to me that for any number of patients facing more serious operations, including possibly my new pre-operating room neighbor, this would be the last thing they see — pale yellow acrylic latex paint. Death be not proud. Suddenly, I understood what T.S. Elliot meant when he wrote that the way the world ends is “Not with a bang but a whimper.”

Life is long but it is also painfully short. A blink. I came of age with the Rocky movies, seeing the first one in the theater in 1976 and still today choking up at the end of the best ones. Is it because of the movies which, camp though they may be, so brilliantly tug at every heartstring? Or is it because nearly half a century has gone by and I’ve watched Sylvester Stallone age from a 20-something to a 75-year-old in what seems like the length of a feature film? Whose reflection is it I see when I look in the mirror?

We seldom see the ends of things coming because we act so often as if we have all the time in the world. What would happen if we lived with the awareness that precisely because life is so short, we should be our best selves all the time? No second chances, no do-overs. If we lived as a community rather than a zero-sum game?

As we get older, life looks so much different in the rearview mirror than the windshield. Life’s most recollected moments come down to those instances when we could do the right thing or the easy one. When it comes to diversity, for all of us, this is one of those moments.
This week on *In House Warrior*, the daily podcast I host for the *Corporate Counsel Business Journal*, I spoke with two legal diversity experts who are paving the way to create real change in the legal community.

Aviva Will, Burford Capital’s Co-Chief Operating Officer, discussed the company’s launch of the second phase of *The Equity Project*, a $100 million commitment designed to increase diversity in the business of law, particularly in leadership and partner positions. The project’s goal is to create opportunity in law where there was none before and build connective tissue between lawyers and their clients where there might otherwise be a breakdown over financial issues. Ms. Will shared how the expansion of The Equity Project was motivated by the “vanishingly few” commercial disputes led by female and racially diverse lawyers. Burford contributes a portion of its profits made from resolved Equity Project-funded matters to organizations that promote lawyer development for female and racially diverse lawyers.

I also interviewed my old friend Lloyd Johnson, CEO and founder of Chief Legal Executive LLC, who previously launched the Minority Corporate Counsel Association (MCCA) and numerous legal publications, to discuss diversity in the legal community. For more than 30 years, Lloyd has counseled senior executives at Fortune 500 companies, playing a pivotal role in the legal community through career development initiatives that engage and mentor female attorneys and attorneys of color.

Our conversations reminded me of our collective need to challenge the standard for diversity. We must recognize the similarities of our victimhood and the abundance of opportunities. We should be stepping together, not stepping on each other. How much progress have we truly made in diversifying legal departments? How much more is on the horizon?

The biggest changes are ahead of us.

“The moment we begin to fear the opinions of others and hesitate to tell the truth that is in us, and from motives of policy are silent when we should speak, the divine floods of light and life no longer flow into our souls.”

— Elizabeth Cady Stanton

Enjoy the listens.

Richard Levick

*Listen to From Birmingham to Central Park Karen, The Long Road for General Counsel Diversity*

*Listen to The Brilliance of Burford's Equity Project*
We Are The Monument – Look!

“The world will little note, nor long remember what we say here, but it can never forget what they did here. It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us — that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion — that we here highly resolve that these dead shall not have died in vain- that this nation, under God, shall have a new birth of freedom — and that government of the people, by the people, for the people, shall not perish from the earth.”

— Excerpt from the “Gettysburg Address”
by Abraham Lincoln

On the morning of November 19th, 2021, the 158th anniversary of President Abraham Lincoln’s brief speech at Gettysburg, I listened to the Gettysburg Address again. I was so deeply moved, as I have been each time I have read or listened to it over the years. Like any meditation, each time I come in contact with its words, I see something more in it. Obvious
perhaps and not surprising, considering it was in 272 words, President Lincoln summed up the promise of this nascent Republic. We are the monument. Not stone, nor granite, nor marble. Not an edifice to visit, but we, each living and breathing generation, are the monument to all who fell and who sacrificed for this great experiment in self-rule. With the exception of the Athenians, who periodically practiced forms of direct democracy, and the pirates, we…are…it. America is the first modern and longest-lasting great experiment. It is as fragile as you and me.

This week, I interviewed my old high school friend and author, Andrew Yarrow, a former New York Times journalist and author of the recently released book, Look: How a Highly Influential Magazine Helped Define Mid-Twentieth-Century America, on In House Warrior, the daily podcast I host for the Corporate Counsel Business Journal.

Andrew, known for his thorough research and ability to put complex topics into perspective, talked about how issues such as civil rights, school integration, gay marriage, the Black Panthers and more positively and significantly impacted by an all-but-forgotten magazine. As Andrew has written, “Arguably, no magazine brought the evils of Jim Crow, segregation, the Klan and everyday white racism to the attention of more Americans than Look.” Quite simply, Look made us better.

In a recent op-ed in The Washington Post, Andrew wrote of the compelling story of how and why America’s most influential illustrator of the time, Norman Rockwell, left The Saturday Evening Post — destination reading — after 40 years to join Look, where he would be free to draw illustrations in keeping with his emerging civil rights vision.

Did Mike Cowles, Jr., who co-founded Look magazine in 1937, along with his brother John, ever imagine that the feature stories they carried by the likes of Senator Edward Brooks, Eldridge Cleaver, Margaret Mead, Gloria Steinem, Robert Kennedy, Martin Luther King, Jr. and William F. Buckley or the photographs and illustrations by Stanley Kubrick, James Karales and Norman Rockwell would carry Lincoln’s torch? Each fortnight this magazine, which at its peak was read by 35 million Americans — one in eight — would hold out a mirror and a lens to each of us and our collective ideals? After ceasing publication in 1971 and having never been digitized, it is an influence that is now largely forgotten, but its mission is not.

There is no media today — with the possible exception of Facebook, Twitter and Google — with the singular power of Look and its quintessential photos and feature story journalism, to touch our collective souls and make us stop and re-think our points of view. This is the reason Jackie Robinson chose not a press conference or television to announce his retirement, but an article in Look. Words and pictures matter — they are the key to our collective conscience and souls. Democracy’s voluntary nature demands it. Otherwise, we are so exclusively engaged in our own self-interest to beg the question, what is a country for?

There is something immensely powerful about a past when we received a tiny fraction of the 24/7/365 media that we do today. Chief among the differences was that we could breathe, digest and process. And with that processing was the magic of epistemology. We could go from information to wisdom and with it, we could change. We had a chance to become the living monuments that Lincoln called for in his words for the ages. Today, we come to issues thinking we are fully formed and that all we need do is find like-minded information to support our increasingly hardened positions. But democracy, the kind Lincoln begged for, requires discussion, debate and consideration to work.

I thought a good place to start on living Lincoln’s ideal was on how we communicate. So, in a separate show, I interviewed Nadia Bilchik, President of Greater Impact Communication, editorial producer at CNN, author, and keynote speaker, about the importance of how we communicate in a largely virtual world, not just what we communicate.

Nadia provides immediately actionable insights for her audiences in an age where many people no longer know how to communicate through conflict, communicate authentically, use their “3rd eye” to see themselves in real time or listen for understanding. When Nadia speaks, you can see her listening intently to truly understand what the speaker is saying, rather than preparing her next response —good skills for a functioning democracy, rather than judgment, accusations and anger, which, unfortunately, we seem to have perfected.
These are some of the skills we need to become living monuments to this noble and great experiment. And one more from poet George Eliot.

If you sit down at set of sun
And count the acts that you have done,
And, counting, find
One self-denying deed, one word
That eased the heart of him who heard,
One glance most kind
That fell like sunshine where it went —
Then you may count that day well spent.

But if, through all the livelong day,
You’ve cheered no heart, by yea or nay —
If, through it all
You’ve nothing done that you can trace
That brought the sunshine to one face —
No act most small
That helped some soul and nothing cost —
Then count that day as worse than lost.

— “Count That Day Lost” by George Eliot

Enjoy the shows.

Richard Levick

Listen to How Look Magazine Helped Define Mid-Twentieth-Century America

Listen to Connecting in a Virtual World
"All the world’s a stage,
And all the men and women merely players;
They have their exits and their entrances;
And one man in his time plays many parts…"
— William Shakespeare, *As You Like It*

It is the 80th anniversary of the attack on Pearl Harbor, a day which always resonates with and deeply saddens me, as it is one of the first historical events I remember learning about as a child. My late father was a 14-year-old kid on December 7th, 1941, attending a professional football game at old Griffith Stadium in Washington, D.C. He told me so many times about the public address announcer calling out different admirals and generals — a sure sign something was terribly wrong in an era long before cell phones and 24-hour news — that I swear I can hear the echoes of those announcements too.

Soldiers at Pearl Harbor were still learning how to use a new device called radar when Private Joseph McDonald detected a large number of planes heading toward the base. He called his commanding officer, First Lieutenant Kermit Tyler, who had been provided virtually no training, supervision or staff on this new technology and presumed it was the scheduled arrival of six U.S. B-17 bombers. The rest, as they say, is tragic history, and 2,403 Americans died from the attack. The American involvement in World War II had begun. He would later be cleared of any wrongdoing by a Naval Board of Inquiry, but he had to live with his indecision for the rest of his long life. Imagine how different history would be if he had had just a little more time with this new technology. It got me thinking about the power of perspective.
About 35 years ago, when my grandmother was 91, I got a call from the nursing home that she had been injured and, with my parents being out of town and unreachable, I had to immediately take full responsibility, including joining first responders and weighing in on the question of **heroic measures**. The answer at that point was no, which felt terribly adult and precipitate for someone not yet 30. Who was I to make this life and death decision for my grandmother?

As part of the experience in the emergency room, they had to quickly cut off much of her clothing and there I was, answering questions from the emergency room doctors and seeing my grandmother totally vulnerable and half-naked, not something I ever thought I would witness. As with those moments that are sealed in our memories, I was feeling a flood of simultaneous conflicting emotions. Sadness for my grandmother, clearly on her final hospital visit. But also awe for seeing her half-naked. For the very first time in my life, I could imagine her not just as someone two generations my senior, but as a young girl, a vibrant woman, a mother and only much later, as my grandmother. We have an automatic tendency to do that — see others for only this moment in time as it reflects upon us. As if it is a role handed down by heaven and their job is to play the old person — not the culmination of many different characters over nearly a century. We, of course, play many roles, or “seven ages,” as Shakespeare would say.

I think sometimes that our political differences are less about what we think are our hardened views and more about our perspective. I appreciate the climate change activism and viewpoint of **Greta Thunberg**, but as someone who had a career as an environmental activist 35 years ago, I only have so much patience for being lectured by an 18 year old. I want her to succeed; I'm just not as patient with the messenger. My perspective has matured.

As Tim Russert said, “The older I get, the smarter my father [and mother] seems to get.” After you reach a certain age and start reading the obituaries before the sports pages and realize you have a shorter and shorter runway, it has a way of minimizing other problems and differences.

In the years before marketing and mass commercialization took over and Madison Avenue began ignoring people over 55 as not in their target market, age used to be associated with wisdom. And the wisdom was revered. Now we are dismissed with “OK, Boomer” or ignored altogether. The great disappearance.

It is not a complaint but a warning. Our perspectives continue to evolve. Former Senator John Kerry may have been a “flip flopper,” as he was effectively **accused** of during his 2004 presidential campaign, but he was also exhibiting the wisdom of age, which is to evolve. If we have the same perspective at 75 as we did at 25, then what's a lifetime for? Looking back is a lot different than looking forward.

I’ve been pro-choice my entire life, though I've always preferred to explain my position rather than categorize it. When I was in law school and wrote a paper on **Roe v. Wade**, I pointed out that while I liked the result, I was troubled by Justice Blackmun finding a right to privacy in the penumbra of the Fourth Amendment, almost out of whole cloth, a reasoning that occasionally concerned other moderate and liberal justices both at the time and in subsequent years. It is as brilliant as it is creative. But is it any more or less hypocritical than some of the arguments we heard last week by the new Court’s conservative majority? The likely result troubles me greatly. We can poke a lot of holes in the arguments made by the new six vote majority during their questioning and reasoning at oral argument, when they clearly signaled their desire to overturn Roe. Nevertheless, it's not as though the reasoning of the 1973 ruling is without flaws. Perspective.

Like Darwin's *On the Origin of Species*, we can choose to continue to evolve. We need not change our core or even our points of view, but we do gain appreciation from the mountain top.

We don’t need to like the opposition, but we do need to listen, to engage, to understand. It is how we grow. As the late Senator and candidate for Vice President Bob Dole wrote in his final column — a message from beyond for all of us to be our better selves — “bipartisanship is the minimum we should expect from ourselves.”

I don't learn much from drinking the Kool-Aid, but I do learn an immense amount from listening, discussing and debating. If law school taught me anything, it was to think in layers. If not that argument, then this, to support our point of view—sometimes many layers deep. Never is an opinion to be validated by “Because I said so.”

One of the many joys of my job is the daily podcast I host for the *Corporate Counsel Business Journal* and the opportunity each day to interview some of the leading legal scholars, lawyers, lobbyists, former politicians, authors and more. And with each show, especially when I don’t agree with a guest's point of view, is the heady moment when I think, “I may not agree, but now I understand their reasoning.” This is how this species evolves.
This week I had four wonderful shows on *In House Warrior*, touching on this topic of listening and inclusivity, including:

A look at the U.S. Supreme Court term with Josh Blackman, a national thought leader on constitutional law and the United States Supreme Court, regular television commentator, Professor at the South Texas College of Law Houston and an adjunct scholar at the Cato Institute. He discussed the current Supreme Court term including a look at *Roe v. Wade*, the Mississippi and Texas abortion laws, gun control, voting rights, vaccination mandates, the value of legislative histories, stare decisis and the original intent doctrine. Professor Blackman has authored three books, and his latest, *An Introduction to Constitutional Law*, is a top-five bestseller on Amazon.

A look at nuclear verdicts (“A billion is the new million”) with Stratton Horres and Karen Bashor, partners at Wilson Elser and accomplished litigators with extensive experience in crisis management and catastrophic and high-exposure mass casualty events. They discussed the rise of social inflation and its impact on nuclear verdicts, legal strategies for turning the tables and minimizing these nuclear verdicts, and also provided insights into best practices for handling billion-dollar claims.

Ron Karr, CEO of Velocity Mindset, spoke about how sales teams with modern approaches can capitalize on more opportunities and walk away with more deals in less time. He focused on the importance of listening, overcoming resistance and truly understanding what you want out of each exchange. His newest book is *Velocity Mindset: How Leaders Eliminate Resistance, Gain Buy-in, and Achieve Better Results—Faster*.

And finally, understanding polling and research with Justin Wallin, CEO of Wallin Opinion Research, whose firm has delivered strategic direction to hundreds of political candidates, organizations and non-profits. He spoke about what political polling can and cannot do, our demand for conclusions even when the answer is too close to call, the importance of intelligence informing strategy and why it is so important to speak with people who think differently than we do — our growth and wisdom depend on it, as do our business decisions and our form of self-governance.

“...And so he plays his part. The sixth age shifts
Into the lean and slipper’d pantaloon,
With spectacles on nose and pouch on side;
His youthful hose, well sav’d, a world too wide
For his shrunk shank; and his big manly voice,
Turning again toward childish treble, pipes
And whistles in his sound. Last scene of all,
That ends this strange eventful history,
Is second childishness and mere oblivion;
Sans teeth, sans eyes, sans taste, sans everything.”
— William Shakespeare, *As You Like It*

Perspective. Enjoy the listens.

Richard Levick

*Listen to A Look at the U.S. Supreme Court Term*
*Listen to Nuclear Verdicts — A Billion is the New Million*
*Listen to The Velocity Mindset*
*Listen to Asking Why*
Hey, Hey, It’s The Monkees

“Here we come, walkin’
Down the street.
We get the funniest looks from Ev’ry one we meet.
Hey, hey, we’re the monkees
And people say we monkey around.
But we’re too busy singing
To put anybody down.”

— By Tommy Boyce and Bobby Hart for The Monkees

It’s been years since I cried outright, but the older I get, the more often I choke up. It passes, like a sea breeze: rather quickly, but unforgettable. It happened three times this past week. It would have been four, but I am in so much denial over the U.S. Supreme Court that I am more stoic than melancholy.

One of the few arguments I ever had with my younger sister was over the validity of The Partridge Family. It was the fall of 1970 or 1971 and The Partridge Family television show — loosely based on the musical family, The Cowsills — was coming on air. I didn’t want to watch it on the “kid’s” television, the one the four of us shared in the basement. The Monkees, I argued, was a real band. This was just television.

Of course, the Monkees started out the same way, debuting on NBC in 1966, when Michael Nesmith, Peter Tork, Micky Dolenz and, of course Davy Jones, beat out 433 other aspiring actor/musicians answering an advertisement in the Hollywood Reporter and Daily Variety — “Madness!! Auditions. Folk & Roll Musicians-Singers for acting roles in new TV series.”
Running Parts for 4 insane boys, age 17-21. Want spirited Ben Frank’s types. Have courage to work. Must come down for an interview.”

After seeing The Beatles’ film, A Hard Day’s Night, Hollywood executives Bob Rafelson and Bert Schneider were looking for the next version of Beatlemania, though they wanted a band far more controllable than the brilliant and enigmatic Beatles and much more PG than the “bad boy” image of the Rolling Stones.

They got half of what they wanted, with The Monkees outselling the combined sales of the Beatles’ Sgt. Pepper’s Lonely Hearts Club Band and the Rolling Stones’ Their Satanic Majesties Request in 1967. What they didn’t get was control. Only The Partridge Family’s Shirley Jones and her stepson, David Cassidy, could perform. With The Monkees, all four improved enough to play live concerts by December of 1966. They went on tour, famously having Jimi Hendrix open for them for a brief period, until it was clear that ‘The Monkees’ young fans could not appreciate this “psychedelic rock god,” as the History channel memorialized that ill-fated tour. Ill-fated or not, Jimi Hendrix was never going to open for The Partridge Family.

Michael Nesmith was the cerebral one who inspired MTV and The Eagles and wrote a number of generation-defining country-rock hits including Different Drum, made famous by Linda Ronstadt and The Stone Poneys. With Michael’s passing, three of The Monkees are now gone and only Micky Dolenz remains.

Perhaps one of the most important things The Monkees achieved, beyond 20 Top 100 pop hits, is that they made the British invasion of rock music safer and more palatable for a generation of parents not yet comfortable with what their kids were listening to.

As with so many of my peers, I was saddened by Michael’s passing, for he represented unrepressed youth and with a blink, he was the “old man” in Neil Young’s song by the same name.

The two other things that made me tear up this past week included the Army-Navy game, a game my late father and I watched or went to so many times over five decades that it became a family tradition. Even my older sister, who has no interest in football, watches and texts me during the games, certain as I am that our father is watching as well.

Post-game, listening to the Army players singing “The Army Alma Mater” and the Navy players singing “The Navy Blue and Gold” does it to me every time.

My impressions of the military were largely formed as a teenager as the Vietnam War raged. Despite my deep appreciation for the service academies and the military, my anti-war feelings at the time were too strong to consider joining the military, an experience — or non-experience — I’ve come to regret.

Out of the antiwar movement, I think we learned the wrong lesson, which is that there should be no draft. But without any form of mandatory service to country — including non-military service programs — we have generations who don’t fully appreciate a collective sense of commitment to our nation. Covid-19 is a threat on par with our World Wars, the 1918 Pandemic and the Great Depression, yet if we were attacked tomorrow, how many would line up outside of the military recruitment stations? We can’t even agree to wear masks or take a vaccine to battle a killer that has left 800,000 dead in its wake. I never fully appreciated the Korean War mantra, “Freedom is not free,” until these past few years. We don’t speak of collective sacrifice. We speak of individual liberties, as if we are 330 million independent nations.

And finally, I met a woman. Well, not really. She reached out online and over nearly a month we developed a lovely conversation based on daily texts and a few calls. Like all relationships born on the internet, I was suspicious. The suspicion only grew, but so did the intensity of the conversations. It was the triumph of hope over experience as the void she filled, the hope she provided, the belief that magic could exist did battle with each red flag — all subtle, but the sheer volume of them ultimately lead me to know that she was not real and that it was a slowly developing scam.

This is not a story about the internet, though it could be. It is about the need in each of us to believe in something bigger than ourselves. That four inexperienced actors and amateur musicians could rocket to superstardom and help us usher in the era of Rock ‘n’ Roll. That young men and women could believe in something so strongly they are willing to sacrifice everything for the rest of us. And that I, a veteran of a thousand Washington, D.C. battles, could still overcome my cynicism, if only for a short while, and hold out hope that there was beauty in this ever-challenging world.

“Can we all get along?”
We all hold out hope. It is what gets us through every day. It is what Ronald Reagan always understood and Donald Trump never will. We want to believe: in God, in country, in family, in love. It is what gives life its meaning.

At about the same time I was becoming enamored with The Monkees, I was reading and lionizing Hubert Humphrey, who was the lead author of the Civil Rights Act of 1964 for virtually no political gain other than that he thought it was the right thing to do and long overdue. Along with Humphrey, there was Walter Mondale, Attorney General of Minnesota, writing an Amicus Brief for a criminal defendant and getting 22 state AGs to follow his lead in *Gideon v. Wainwright*, the right to counsel. An exceedingly rare thing for an Attorney General to do, and, again, for no political gain. He simply and strongly believed in the rule of law. It was a time when faith in institutions and the belief in the possible nearly bursts our collective hearts.

Today, one of the great things I fear is the tremendous loss in stature of our institutions: first the White House, Congress, and the media, and now, the United States Supreme Court. The difference between democracy and mob rule is the rule of law. Without it, “The law is politics by other means,” as Samuel Moyn, the Henry R. Luce Professor of Jurisprudence at Yale Law School and a Professor of History at Yale University, said to me on In House Warrior, the daily podcast I host for the *Corporate Counsel Business Journal*.

I also interviewed three other lions of the law this week, on the primacy of the Court, the rule of law, and antitrust and environmental law.

Thomas (T.L.) Cubbage III, President of *The Center for American and International Law* (CAIL) talked about the current and historic threats to the rule of law, Jim Crow, John Birch and improving the quality of justice.

I also spoke with Tad Lipsky, “the Dean of the Antitrust Bar,” a now-retired longtime partner at Latham & Watkins, Assistant Professor and Director of the Competition Advocacy Program at the Global Antitrust Institute at George Mason University and former Deputy Assistant Attorney General under William F. Baxter, President Reagan’s first chief antitrust enforcement official. He helped spark profound changes in antitrust law and policy and in this episode discussed the state of antitrust law; Lina Khan, Chair of the FTC; antitrust and high tech; and what the Biden Administration should and should not be considering when it comes to antitrust.

Ben Wilson, the outgoing Chairman of Beveridge & Diamond, who will be retiring after more than 35 years at the firm, spoke with me about environmental law; the right to counsel, particularly on unpopular energy and environmental issues; the rule of law; diversity and the environmental Bar; the growing second “E” in ESG — “employees” — as well as some personal and historical thoughts. Though he will appear again on future shows, his daily leadership and vision will be missed.

For the first half of our lives, we are collecting things. In the second half, it is about evanesce — the slow fading away into nothingness — like the Monkees. As for the Court, I pray this is not its moment of evanesce.

“I thought love was only true in fairy tales
Meant for someone else but not for me
Love was out to get me
That’s the way it seemed
Disappointment haunted all of my dreams”

— “I’m a Believer” — Written by Neil Diamond for The Monkees

Enjoy the shows.

Richard Levick

*Listen to The Law is Politics By Other Means*

*Listen to The Sanctity of the Rule of Law*

*Listen to The Dean of the Antitrust Bar*

*Listen to The Dean of the Environmental Bar*
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