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Laboring Under the Sun: An Old Testament Perspective on the Legal Profession

Gordon J. Beggs

I. A PARABLE ABOUT THE LEGAL PROFESSION

A lawyer who lived in a mansion on the top of a mountain wanted to hire a driver. To reach the lawyer’s house, the driver would have to travel up a winding road that followed the edge of the mountain. The lawyer interviewed three candidates, and in each interview asked but a single question: “How close to the edge of the winding road could you safely drive my car?” The first candidate answered, “I am an experienced driver; I could safely drive a foot from the edge.” The lawyer thanked and dismissed the first candidate. The lawyer then questioned the second candidate, who responded, “I am an excellent driver; I could safely drive six inches from the edge.” The lawyer thanked and dismissed the second candidate. The third candidate was likewise questioned and replied without hesitation, “Counselor, I would not go anywhere near the edge of road.” “You’re hired,” said the lawyer.

Today our lawyer would likely choose one of the first two candidates. If the parable is applied to the legal profession, the modern choice reflects a trend noted by several scholars1 and nicely summarized by Thomas Shaffer:

Each generation of American lawyers . . . has revised its code of ethics; each revision says less about morals and says what it does say about morals less clearly. The American Bar Association’s new Model Rules of Professional Conduct for American lawyers bring this development to new fullness by avoiding the traditional words of ethical argument, words such as conscience, morality, right, good, and propriety, in favor of words of mandate and permission that are the stuff of statutes and court orders. The


1. See MARY ANN GLENDON, A NATION UNDER LAWYERS: HOW THE CRISIS IN THE LEGAL PROFESSION IS TRANSFORMING AMERICAN SOCIETY 79 (1994) (“Recent changes in the rules actually seem to go with the flow of systemic problems in the profession rather than helping to counter them. In the 1983 Model Rules, for example, almost all of the language of moral exhortation that had characterized previous codes of lawyer conduct has been removed.”); CHARLES W. WOLFRAM, MODERN LEGAL ETHICS § 2.7.1 (1986) (observing the “general omission of any discussion of ethical considerations in the [Model] Rules”); David Luban & Michael Millemann, Good Judgment: Teaching Ethics in Dark Times, 9 GEO. J. LEGAL ETHICS 31, 45 (1995) (stating that with the replacement of ABA’s original Canons of Professional Ethics, which provided “a beacon light on the mountain of high resolve to lead the young practitioner safely through the snares and pitfalls of his early practice up to and along the straight and narrow path of high and honorable professional achievement,” by the Model Rules of Professional Conduct, which “announced itself as nothing more than an effort to regulate conduct, . . . [t]he de-moralization of the ethics rules was complete”).
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claim implicit in these proposals is that the nationally organized bar is not interested in providing, or is not able to provide, moral admonition to American lawyers; moral admonition has become either entirely private, or non-professional, or it has become a concern appropriate in more local or more specialized organizations of lawyers.  

Law school courses on legal ethics reflect this trend. As a general rule, law professors do not consider it their responsibility to teach morality to their students.  

II. HOFFMAN AND THE BOOK OF ECCLESIASTES

To David Hoffman, however, the lawyer’s selection of a driver would have made perfect sense. Hoffman, who taught law at the University of Maryland, published the United States’ first text on legal ethics in 1836 as part of a comprehensive course of legal study. From the modern perspective, the extraordinary thing about Hoffman is his belief that an attorney’s conduct should be governed by personal conscience.  

2. THOMAS L. SHAFFER, AMERICAN LEGAL ETHICS: TEXT, READINGS, AND DISCUSSION TOPICS 167 (1985); see Thomas L. Shaffer, The Legal Ethics of Radical Individualism, 65 Tex. L. Rev. 963, 963 (1987) (“Most of what is called legal ethics is similar to rules made by administrative agencies. It is regulatory. Its appeal is not to conscience, but to sanction. It seeks mandate rather than insight.”).

3. See, e.g., Deborah L. Rhode, Ethics by the Pervasive Method, 42 J. Legal Educ. 31, 31 (1992) (“The conventional view on most faculties has been that education in professional responsibility has been someone else’s responsibility.”); Honorable Thomas R. Clark, Teaching Professional Ethics, 12 San Diego L. Rev. 249, 252 (1975) (stating that many law professors eschew “teaching” integrity, believing the effort to be “futile at best” and “counter-productive at worst”). The result can be alienating for the student with a strong value system, as poignantly illustrated by Mary Lauchli’s description of her law school experience:

With a few exceptions, we appeared to spend a lot of time discussing brute facts. We sat in class and discussed matters which did not appear relevant to proper resolution of the problem at hand. I always wondered to myself, who were these litigants? What were their stories? Why did the law dehumanize them? Wasn’t there a better way to resolve their dispute? Did they try forgiveness? I thought of their emotional trauma and litigation expenses. I also wondered why we spent all our time looking at appellate decisions. Surely, the law was much greater than these. What about love? Biblical principles? These questions were never raised or answered. I felt invisible. Did what I think count? Did my perspective as an Asian-American Christian woman matter?


5. Hoffman wrote:

What is wrong, is not the less so from being common. And though few dare to be singular, even in a right cause, I am resolved to make my own, and not the conscience of others, my sole guide. What is morally wrong, cannot be made professionally right, however it may be sanctioned by time or custom. It is better to be right with a few, or even none, than wrong, though with a multitude. If, therefore, there be among my brethren, any traditional moral errors of practice, they shall be studiously avoided by me, though in so doing, I unhappily come in collision with what is (erroneously I think) too often denominatized the policy of the profession.

HOFFMAN, supra note 4, at 765 (Resolution XXXIII). Hoffman’s view was not unique. George Sharswood succee-
As one scholar has commented, Hoffman’s writings were “most notable for their refusal to separate private from public morality, or to admit that practitioners might ever be guided by norms that did not apply equally to all citizens.”

Unlike that of his modern counterparts, Hoffman’s teaching of ethics emphasized moral values, particularly Judeo-Christian values. His course included a reading list that began with four books from the Bible—the Old Testament’s Proverbs of Solomon and Ecclesiastes, and, from the Apocrypha, the books of Ecclesiasticus and Wisdom.

As I have suggested elsewhere, the book of Proverbs “offers a timely challenge to the character of the legal profession by advocating values which include justice, purity, mercy, humility, honesty, candor, truthful testimony, and civility.” This Essay attempts to discern principles of ethics and to develop a perspective on today’s legal profession based on the book of Ecclesiastes and the teaching of David Hoffman.

Hoffman’s text indicates that he included Ecclesiastes in his course for the same reason he included the “wise and sententious” Proverbs of Solomon. These proverbs, he said “seem to form a proper, and very natural commencement of a course of reading on that moral wisdom which teaches, not only the science, but the true art of being happy, and of promoting our earthly advancement.” Hoffman described Ecclesiastes as “replete with salutary precepts to be as faithfully studied and practised by lawyers and judges, as by divines.”

Explaining the utility of the Scriptures included in his course, Hoffman stated “the more familiar our acquaintance with them has become, the more we are satisfied that for beauty of expression, sublimity of morals, as the results of actual experience, and for an intimate knowledge of man’s nature, they are pre-eminent . . .”


7. Hoffman wrote:
If treatises on morals should be the first which are placed in the hands of the student, and the structure of his legal education should be raised on the broad and solid foundation of ethics, what book so proper to be thoroughly studied with this view, if no other, as the Bible?

Hoffman, supra note 4, at 66.

8. Id. at 724, 727-28.


11. Id.

12. Id. at 727.

13. Id. at 728. Some modern scholars, such as Thomas Shaffer, have expressed similar views:
My purpose here is to claim legitimacy for religious legal ethics by arguing that most American attorneys should ignore most of what my colleagues in the mansion say about legal ethics, and should
The author of *Ecclesiastes* is identified in the Hebrew as "Qoheleth." As noted by Hoffman, the identity of the author is disputed. Scholars do not know whether "Qoheleth" represents a name, a pseudonym, or the title of an office. In the Greek translation of the Old Testament, the term was rendered as "ekklesiastes," referring to a "teacher," or, as Hoffman elaborates, "teacher of wisdom." Most English titles of the book are derived from the Greek translation. Many scholars believe that the author depicts King Solomon as the Teacher and uses him as a literary device to convey the book's message.

*Ecclesiastes* introduces the Teacher as the "son of David." In the monologue which follows, the Teacher, a person of extraordinary wealth and power, identifies himself as "king over Israel in Jerusalem." He "undertook great projects: . . . built houses . . . and planted vineyards." The Teacher declares: "I amassed silver and gold for myself, and the treasure of kings and provinces. I acquired men and women regard official "ethics" rules for attorneys the way they regard the motor vehicle code—as an administrative regulation having very little to do with being righteous and an attorney simultaneously. This entails, as I have tried to demonstrate elsewhere, turning to fellow believers in church, temple, and synagogue for moral guidance, and turning to the Bible and our traditions for the professional moral heritage of Jews and Christians.

Thomas L. Shaffer, *On Religious Legal Ethics*, 35 CATH. LAW. 393, 397 (1994). Likewise, Rex Lee commented in a speech dedicating the St. Mary's Law School Library:

Let me begin with two propositions which are largely intuitive and, I think, indisputable. The first is that nothing is more important to the success and happiness of the individual lawyer and to the profession than high standards of professional conduct. And the second is that as lawyers we should be able to learn something from religion insofar as this important aspect of our training is concerned. The problem, after all, concerns proper human behavior, a problem to which religious belief and religious teachings are no strangers. Religious values are not something that law schools should ignore, or attempt to explain away, or pretend to be nonexistent. Far from being an embarrassment or an obstacle, they should be treated for what they are, indispensable components of the well-trained lawyer.


15. HOFFMAN, supra note 4, at 727 (stating that Bible scholars disputed the authorship of Ecclesiastes).


17. THE NIV STUDY BIBLE, supra note 14, at 986 n.1:1.

18. HOFFMAN, supra note 4, at 727.


22. The monologue includes a rich variety of literary types; Old Testament scholar James Crenshaw identifies reflection, autobiographical narrative, example story, anecdote, parable, antithesis, and proverb. Crenshaw, supra note 16, at 520. He also notes: "The proverb itself occurs in many forms: truth statements, better sayings [e.g., nothing is better than, see Ecclesiastes 2:24, 3:12, 22] numerical sayings, instructions, traditional sayings, maledictions, and benedictions." Id.

23. Ecclesiastes 1:12.

24. Id. at 2:4.
singers, and a harem as well—the delights of the heart of man. I became greater by far than anyone in Jerusalem before me."\textsuperscript{25}

The Teacher also possesses great wisdom. He asserts: "I devoted myself to study and to explore by wisdom all that is done under heaven."\textsuperscript{26} Ecclesiastes affirms that the Teacher writes with authority:

Not only was the Teacher wise, but also he imparted knowledge to the people. He pondered and searched out and set in order many proverbs. The Teacher searched to find just the right words, and what he wrote was upright and true. The words of the wise are like goads, their collected sayings like firmly embedded nails—given by one Shepherd. Be warned, my son, of anything in addition to them.\textsuperscript{27}

The Teacher is not content to set forth what Hoffman termed "salutary precepts"\textsuperscript{28} for conduct, but also seeks "an intimate knowledge of man’s nature."\textsuperscript{29} From the perspective of an old man who has achieved great material and intellectual success,\textsuperscript{30} the Teacher asks an ultimate question, one seldom confronted by the legal profession today: "What does man gain from all his labor at which he toils under the sun?"\textsuperscript{31} The reader is invited to consider the ethical precepts and the philosophical perspective offered by Ecclesiastes that are explored in the following two sections.

### III. ETHICAL PRECEPTS FROM ECCLESIASTES

#### A. Professionalism

Ecclesiastes’s Teacher advocates values which lawyers identify with professionalism:

Obey the king’s command, I say, because you took an oath before God. Do not be in a hurry to leave the king’s presence. Do not stand up for a bad cause, for he will do whatever he pleases. Since a king’s word is supreme, who can say to him, "What are you doing?" Whoever obeys his command

\textsuperscript{25} Id. at 2:8-9; cf. 1 Kings 4-11 (describing the splendor of King Solomon).

\textsuperscript{26} Ecclesiastes 1:13.

\textsuperscript{27} Id. at 12:9-12; see THE WYCLIFFE BIBLE COMMENTARY, supra note 20, at 594 ("Claiming to have received his teachings by direct revelation from God, the author states that therefore his hearers do not need to go elsewhere for truth.").

\textsuperscript{28} HOFFMAN, supra note 4, at 727.

\textsuperscript{29} Id. at 728.

\textsuperscript{30} THE NIV STUDY BIBLE, supra note 14, at 984 ("The book contains the philosophical and theological reflections of an old man . . . ").

\textsuperscript{31} Ecclesiastes 1:3. As John Walton, an Old Testament scholar, has commented, "Like the book Job, [Ecclesiastes] does not dodge the hard questions of life and does not allow easy solutions." HILL & WALTON, supra note 14, at 293.
will come to no harm, and the wise heart will know the proper time and procedure. For there is a proper time and procedure for every matter, though a man’s misery weighs heavily upon him.\textsuperscript{32}

Counsel should exercise restraint in contested matters: “Do not be quickly provoked in your spirit, for anger resides in the lap of fools;”\textsuperscript{33} Moreover, the “[w]ords from a wise man’s mouth are gracious.”\textsuperscript{34} This principle is particularly important in disputes with a tribunal: “If a ruler’s anger rises against you, do not leave your post; calmness can lay great errors to rest.”\textsuperscript{35}

In contrast to the unbridled advocacy often associated with modern practice,\textsuperscript{36} Hoffman commends the approach suggested by \textit{Ecclesiastes}. Hoffman’s course on ethics includes fifty “Resolutions in Regard to Professional Deportment,” which he drafted to guide young attorneys in their role as officers of the court. Hoffman urges that counsel resolve “never [to] permit professional zeal to carry [them] beyond the limits of sobriety and decorum,”\textsuperscript{37} and to “espouse no man’s cause out of envy, hatred or malice towards his antagonist.”\textsuperscript{38} Attorneys should give their clients deliberate and sincere opinions based on the law, “never venal and flattering offerings to their wishes, or their vanity.”\textsuperscript{39} Finally, Hoffman also stresses the importance of civility. When in court, attorneys should be “to all judges . . . respectful”\textsuperscript{40} and, if treated with disrespect by judges, should “value [themselves] too highly to

\textsuperscript{32.} \textit{Ecclesiastes} 8:2-6.
\textsuperscript{33.} \textit{Id.} at 7:9.
\textsuperscript{34.} \textit{Id.} at 10:4.
\textsuperscript{35.} \textit{Id.}
\textsuperscript{36.} \textit{See} Stephanie B. Goldberg & Richard C. Reuben, \textit{Stage Set to Revamp} \textit{Law System}, \textit{A.B.A. J.}, Oct. 1994, at 104 (reporting that a 1994 American Bar Association annual meeting program entitled "Improving the Image of the Legal Profession" addressed "the lack of professionalism as evidenced by the "Rambo"-style lawyer" as one of "three evils thought to encompass the majority of lawyers' woes").
\textsuperscript{37.} Hoffman, \textit{supra} note 4, at 752 (Resolution I).
\textsuperscript{38.} \textit{Id.} at 752 (Resolution II)
\textsuperscript{39.} \textit{Id.} at 764 (Resolution XXXI).
\textsuperscript{40.} \textit{Id.} at 752 (Resolution III).
deal with them in like manner.” Lawyers owe similar respect to other counsel, particularly in debate.

B. Moderation

Ecclesiastes recognizes the dangers inherent in the unrestrained pursuit of wealth: “Better one handful with tranquillity than two handfuls with toil and chasing after the wind.” Hoffman concurs, issuing a stern warning to the lawyer who would seek to maintain personal integrity:

Avarice is one of the most dangerous and disgusting of vices. Fortunately its presence is oftener found in age, than in youth; for if it be seen as an early feature in our character, it is sure, in the course of a long life, to work a great mass of oppression, and to end in both intellectual and moral desolation. Avarice gradually originates in every species of indirection. Its offspring is meanness; and it contaminates every pure and honourable principle. It can consist with honesty scarce for a moment, without gaining the victory. Should the young practitioner, therefore, on the receipt of the first fruits of his exertions, perceive the slightest manifestation of this vice, let him view it as his most insidious and deadly enemy.

41. Id. at 752 (Resolution IV). Hoffman’s text offers perceptive comment on the tension which exists between success in practice and effective advocacy before the courts:

In no career is the great importance of courteous, correct, and honourable deportment more strikingly manifest. If the lawyer would gain clients, he must be popular with the world around him; if he would preserve them he must also be respected by the bench and the bar. Eminent success at the latter depends not solely on learning, eloquence, and sound morals; manners are also of the highest necessity. One who is beloved by his professional brethren, and by the judicial and ministerial officers of the court, soon finds a numerous list of clients, equally adhesive in their attachment, and anxious to promote his welfare and elevation. And if the practitioner should be cautious in his deportment towards clients and the members of the bar, he should be still more so in his intercourse with the court. If loyal to their clients, it is not always easy for counsel, even of the most courteous manners, to prevent collisions with the bench. The unavoidable dependence of the former, on the power of the latter, is apt to generate, in some minds, servility; in others a morbid impatience of control. These extremes should be equally avoided; for, whilst nothing is more ruinous to professional success than ill favour with the court (for clients perceiving it, are apt to magnify its effects) yet a too tame submission to the occasional arrogance, and oppression of judicial sway, is no less so.

42. Id. at 752 (Resolution V) (“In all intercourse with my professional brethren, I will be always courteous.”).

43. Id. at 769 (Resolution XL) (stating that an attorney should not imitate opponents who interrupt or patronize in response to effective argument).

44. Ecclesiastes 4:6. The expression “chasing after the wind” is “[a] graphic illustration of futility and meaninglessness.” THE NIV STUDY BIBLE, supra note 14, at 986 n.1:14; see infra notes 68-89 and accompanying text.

45. HOFFMAN, supra note 4, at 774 (Resolution XLIX).
Hoffman asks that attorneys resolve simply to “entertain no affection for money, further than as a means of obtaining the goods of life” and concludes this resolution with a proverb of his own—“the art of using money being quite as important for the avoidance of avarice, and the preservation of a pure character, as that of acquiring it.”

C. Honesty

Rather than remaining “upright,” Ecclesiastes notes, “men have gone in search of many schemes.” The impropriety of the schemes may be obvious, as when they violate the criminal law: “Extortion turns a wise man into a fool, and a bribe corrupts the heart.” Often, however, they will be much more subtle, for example, when an attorney becomes enmeshed in a lack of candor or a deception: “Whoever digs a pit may fall into it; whoever breaks through a wall may be bitten by a snake.” In either case, the consequence may be the loss of a most precious asset, for as the Teacher affirms: “A good name is better than fine perfume. . . .”

Hoffman embraces these values. The goal of his resolutions is to assist the practitioner “to attain eminence in [his] profession, and to leave this world with the merited reputation of having lived an honest lawyer.” While recognizing that an attorney may sometimes be required to maintain doubtful cases, Hoffman affirms that the lawyer’s and client’s consciences are “distinct entities,” reserving to the lawyer the ultimate determination whether to press a claim.

Hoffman condemns nuisance litigation as a form of extortion. Similarly, once a judgment is rendered,
an attorney should not further pursue a hopeless case: “To keep up the ball (as the phrase goes) at my client’s expense, and to my own profit, must be dishonourable.”

Unlike today’s lawyers, who typically prey on the ignorance of opposing counsel, Hoffman resolves that “no man’s ignorance or folly shall induce me to take any advantage of him . . .”

In negotiation the attorney should be forthright, eschewing:

a system of tactics, to ascertain who shall overreach the other, by the most nicely balanced artifices of disingenuousness, by mystery, silence, obscurity, suspicion, vigilance to the letter, and all of the other machinery used by this class of tacticians, to the vulgar surprise of clients, and the admiration of a few ill judging lawyers.

Hoffman also insists that counsel forego the ever-present temptation to misstate or misquote authority, tactics which he regards at best “as feeble devices of an impoverished mind” and at worst “as pregnant evidences of a disregard for truth, which justly subjects them to be closely watched in more important matters.”

D. Kindness

Ecclesiastes celebrates in poetic language the benefits of mutual assistance:

Two are better than one, because they have a good return for their work:
If one falls down, his friend can help him up. But pity the man who falls and has no one to help him up!

... Though one may be overpowered, two can defend themselves. A cord of three strands is not quickly broken.

to a dishonourable use of legal means, in order to gain a portion of that, the whole of which I have reason to believe would be denied to him both by law and justice.

Id.

55. Id. at 759 (Resolution XIX).
56. See Charles W. Sorenson, Jr., Disclosure under Federal Rule of Civil Procedure 26(a)—“Much Ado About Nothing,” 46 HASTINGS L.J. 679, 786 (1995) (stating that the adversary nature of discovery means that “as long as the cost or risk to the litigants from failing to disclose information is less than the cost of disclosing the information,” a party will hide adverse facts); Mark S. Stein, Of Impure Hearts and Empty Heads, 31 SANTA CLARA L. REV. 393, 404-05 (1991) (noting that a litigant who chooses to knowingly violate Federal Rule of Civil Procedure 11, which prohibits the assertion of a position that is legally frivolous, not well-grounded in fact, or motivated by an improper purpose, has a greater incentive to violate the rule by hiding facts, as this type of violation “is most likely to enable a violator to prevail”).
57. HOFFMAN, supra note 4, at 732 (Resolution V).
58. Id. at 764 (Resolution XXXII).
59. Id. at 770 (Resolution XLI).
60. Ecclesiastes 4:9-12.
The Teacher, however, counsels selectivity in seeking the assistance of others: “It is better to heed a wise man’s rebuke than to listen to the song of fools.”

While Hoffman does not favor joint representation, which might be suggested by Ecclesiastes, he strongly espouses kindness to other counsel that extends beyond what is required by civility. He recalls that in the early days of his practice, his ambitions were “nearly blighted by the inconsiderate, or rude and arrogant deportment of some of my seniors” and might have been “forever ruined had not my own resolutions, and a few generous acts of some others of my seniors, raised me from my depression.” Hoffman asks attorneys to “ever be kind and encouraging” to juniors, lending the support that wise and caring counsel can provide. Moreover, as “age and infirmities overtake” more senior counsel, Hoffman urges that they likewise be treated with kindness, which, he says, will instruct those formerly guilty of abuse in “the loveliness of forgiveness.”

IV. A PERSPECTIVE ON THE LEGAL PROFESSION

A. Laboring Under the Sun

In addition to offering proverbs to guide behavior, Ecclesiastes engages in a broad philosophical inquiry. The Teacher introduces this inquiry with a question that is particularly appropriate for a profession which often measures value in billable hours: “What does man gain from all his labor at which he toils under the sun?” The Teacher considers many of the icons of the profession, including wisdom, work, wealth, and justice. For each, the Teacher asks a single question: does it give meaning to life?

Though the Teacher has “grown and increased in wisdom more than anyone who has ruled over Jerusalem before,” when he contemplates wisdom itself, he recognizes that with knowledge there comes much pain. Moreover, while wisdom is

61. Id. at 7:5.
62. See Hoffman, supra note 4, at 753 (Resolution VII) (“As a general rule, I will not allow myself to be engaged in a cause to the exclusion of, or even in participation with the counsel previously engaged, unless at his own special instance, in union with his client's wishes.”).
63. See Kalish, supra note 4, at 63 (“Hoffman was sensitive to [the early nineteenth century bar's] lack of professional community and tried to stimulate it.”).
64. Hoffman, supra note 4, at 757-58 (Resolution XVII).
65. Id. at 758 (Resolution XVII).
66. Thomas L. Shaffer, The Profession as a Moral Teacher, 18 St. Mary's L.J. 195, 210 (1986) (stating that traditionally "young lawyers' best moral teachers are their professional elders").
67. Hoffman, supra note 4, at 768 (Resolution XXXVIII).
68. Ecclesiastes 1:3. The expression “under the sun” occurs 29 times in Ecclesiastes and refers to the world and what it offers. The NIV Study Bible, supra note 14, at 862 n.1:3.
69. Ecclesiastes at 1:16.
70. See id. at 1:18 (“For with much wisdom comes much sorrow; the more knowledge, the more grief.”).
difficult to discover, its benefits can easily be undone by the actions of a fool. Even those who gain knowledge of the things of this world are unable to find meaning in it: "No one can comprehend what goes on under the sun. Despite all his efforts to search it out, man cannot discover its meaning." He determines that wisdom is ultimately futile, or, as he expresses it in metaphor, "a chasing after the wind."

The Teacher then considers labor, "all the toil and anxious striving... under the sun." As he reflects on the worker, the Teacher finds that: "All his days his work is pain and grief; even at night his mind does not rest." The motivation for work is itself problematic: "And I saw that all labor and all achievement spring from man's envy of his neighbor." Any accomplishment is at best fleeting; it must be left to a successor who often has not worked for it, and who may be wise or foolish. "Work done under the sun" is therefore "grievous" and "meaningless."

Wealth fares no better in the estimation of the Teacher. Of primary concern are the corrosive effects on those who acquire riches:

Whoever loves money never has money enough; whoever loves wealth is never satisfied with his income. This too is meaningless. As goods increase, so do those who consume them. And what benefit are they to the owner except to feast his eyes on them? The sleep of a laborer is sweet, whether he eats little or much, but the abundance of a rich man permits him no sleep. I have seen a grievous evil under the sun: wealth hoarded to the harm of its owner...

Wealth, in the Teacher's experience, is not a surrogate for merit, for "under the sun: [t]he race is not to the swift or the battle to the strong, nor does food come to the wise or wealth to the brilliant or favor to the learned; but time and chance happen to them..."

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71. See id. at 7:24 ("Whatever wisdom may be, it is far off and most profound—who can discover it.").
72. See id. at 9:18 ("Wisdom is better than weapons of war, but one sinner destroys much good."); id. at 10:1 ("As dead flies give perfume a bad smell, so a little folly outweighs wisdom and honor.").
73. Id. at 8:17.
74. Id. at 1:17; see supra note 44 (explaining the phrase "chasing after the wind").
75. Ecclesiastes 2:22.
76. Id. at 2:23.
77. Id. at 4:4.
78. Ecclesiastes 2:18-21 states:
I hated all the things I had toiled for under the sun, because I must leave them to the one who comes after me. And who knows whether he will be a wise man or a fool? Yet he will have control over all the work into which I have poured my effort and skill under the sun. This too is meaningless. So my heart began to despair over all my toilsome labor under the sun. For a man may do his work with wisdom, knowledge and skill, and then he must leave all he owns to someone who has not worked for it.

Id.
79. See id. at 2:17 ("So I hated life, because the work that is done under the sun was grievous to me. All of it is meaningless, a chasing after the wind.").
80. Id. at 5:10-13.
all."

The only certainty about wealth is that it will be lost: "Naked a man comes from his mother's womb, and as he comes, so he departs. He takes nothing from his labor that he can carry in his hand." Often the loss will be untimely.

Even justice disappoints the Teacher: "And I saw something else under the sun. In the place of judgment—wickedness was there, in the place of justice—wickedness was there." This failing should not be unexpected, for "[t]here is not a righteous man on earth who does what is right and never sins." Equal justice is but an ideal; law simply does not remedy the injustices that exist in the world: "Again I looked and saw all the oppression that was taking place under the sun: I saw the tears of the oppressed—and they have no comforter; power was on the side of their oppressors—and they have no comforter." The reasons for this failure are political: "If you see the poor oppressed in a district, and justice and rights denied, do not be surprised at such things; for one official is eyed by a higher one, and over them both are others higher still."

After much study and exploration, the Teacher, a source recommended by Hoffman for instruction in the "the true art of being happy," reaches a rather surprising conclusion. He announces: "I have seen all the things that are done under the sun; all of them are meaningless, a chasing after the wind."

B. A Time and a Season

Though the Teacher is unable to find meaning in any activity under the sun, he does not conclude without hope. In what are perhaps the best known verses from Ecclesiastes, he writes:

81. Id. at 9:11.
82. Id. at 5:15.
83. See id. at 5:13-14 ("I have seen a grievous evil under the sun: ... wealth lost through some misfortune, so that when he has a son there is nothing left for him."); id. at 9:12 ("Moreover, no man knows when his hour will come: As fish are caught in a cruel net, or birds are taken in a snare, so men are trapped by evil times that fall unexpectedly upon them.").
84. Id. at 3:16.
85. Id. at 7:20.
86. Id. at 4:1.
87. Id. at 5:8.
88. Id.
89. Id. at 1:14.
90. Justice Frankfurter referred to the verses as "the law of life enunciated by Ecclesiastes: 'For everything there is a season, and a time for every purpose under heaven.'" See In re Sawyer, 360 U.S. 622, 666 (1959) (Frankfurter, J., dissenting) (dissenting from a ruling that an attorney's speech outside courtroom during a trial deserved constitutional protection); see also In re Application of Frankel, 165 N.Y.S.2d 1018, 1023 (1991) (citing Ecclesiastes 3:1 in support of the dissent from the decision that unionized legal aid attorneys had a First Amendment right to wear buttons in the courtroom); West Virginia ex rel. Bagley v. Blankenship, 246 S.E.2d 99, 108 (W. Va. 1978) (citing Ecclesiastes 3:7 in support of refusal to disqualify justice from hearing a mandamus action); Rudden v. Gro-Plant Indus., Inc., 304 A.2d 812, 813 (Md. 1973) (stating, in an opinion that rejects a collateral attack on a judgment:

While we have yet to subsume the Book of Ecclesiastes into the Maryland Rules, counsel would do well

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There is a time for everything, and a season for every activity under heaven: a time to be born and a time to die, a time to plant and a time to uproot, a time to kill and a time to heal, a time to tear down and a time to build, a time to weep and a time to laugh, a time to mourn and a time to dance, a time to scatter stones and a time to gather them, a time to embrace and a time to refrain, a time to search and a time to give up, a time to keep and a time to throw away, a time to tear and a time to mend, a time to be silent and a time to speak, a time to love and a time to hate, a time for war and a time for peace.

While the Teacher cannot comprehend it, there is an order to life that provides a sense of God in the world, or as the Teacher puts it: “He has made everything beautiful in its time. He has also set eternity in the hearts of men . . . .” Meaning therefore emerges, not from what man does, but from relationship to God: “I know that everything God does will endure forever; nothing can be added to it and nothing taken from it. God does it so that men will revere him.”

From this perspective, the Teacher recognizes that what life offers in the way of work and material benefits may be valued as a blessing from God: “I know that there is nothing better for men than to be happy and do good while they live. That everyone may eat and drink, and find satisfaction in all his toil—this is the gift of God.”

91. See supra note 68 (explaining the expression “under the sun,” which carries the same meaning as “under heaven”).
93. See id. at 3:11 (stating “yet they cannot fathom what God has done from beginning to end”).
94. Id. The Apostle Paul describes the same revelation in the New Testament book of Romans at 1:19-20: “[W]hat may be known about God is plain to them, because God has made it plain to them. For since the creation of the world God’s invisible qualities—his eternal power and divine nature—have been clearly seen, being understood from what has been made . . . .”
95. Id. at 3:14. A desire to find meaning should lead the inquirer to God. See HILL & WALTON, supra note 14, at 296 (“The message of Ecclesiastes is that the course of life to be pursued is a God-centered life. The pleasures of life are not intrinsically fulfilling and cannot offer lasting satisfaction, but they can be enjoyed as gifts from God.”).
96. Ecclesiastes 3:12-13. The Teacher emphasizes this point through repetition. See id. at 2:24-25 (“A man can do nothing better than to eat and drink and find satisfaction in his work. This too, I see, is from the hand of God, for without him, who can eat or find enjoyment?”; id. at 5:18-19 (“Then I realized that it is good and proper for a man to eat and drink, and to find satisfaction in his toilsome labor under the sun during the few days of life God
Moreover, even the unfavorable circumstances of life can be accepted as within God's will: "When times are good, be happy; but when times are bad, consider: God has made the one as well as the other."  

The Teacher also realizes that God supplies the justice that a human system cannot achieve. Because eternity weighs on their hearts, those who break God's law will experience a lack of peace.

Although a wicked man commits a hundred crimes and still lives a long time, I know that it will go better with God-fearing men, who are reverent before God. Yet because the wicked do not fear God, it will not go well with them, and their days will not lengthen like a shadow.

The Teacher stresses through repetition that in eternity, humankind must emerge from under the sun to confront their Maker:

God will bring to judgment both the righteous and the wicked, for there will be a time for every activity, a time for every deed.

For God will bring every deed into judgment, including every hidden thing, whether it is good or evil.

Be happy, young man, while you are young, and let your heart give you joy in the days of your youth. Follow the ways of your heart and whatever your eyes see, but know that for all these things God will bring you to judgment.

The Teacher therefore recommends that the young seek faith so that they may profit by it throughout their lives: "Remember your Creator in the days of your youth, has given him — for this is his lot. Moreover, when God gives any man wealth and possessions, and enables him to enjoy them, to accept his lot and be happy in his work—this is a gift of God."; see id. at 8:15 ("So I commend the enjoyment of life, because nothing is better for a man under the sun than to eat and drink and be glad. Then joy will accompany him in his work all the days of the life God has given him under the sun.").

97. Id. at 7:14; see id. at 9:1 ("So I reflected on all this and concluded that the righteous and the wise and what they do are in God's hands, but no man knows whether love or hate awaits him."). As Old Testament scholar John Walton writes, "Adversity may not be enjoyable, but it can help make us the people of faith we ought to be . . . A God-centered world view is willing to accept both prosperity and adversity as coming from the divine hand."

99. Id. at 3:17.
100. Id. at 12:14.
101. Id. at 11:9; see THE WYCLIFFE BIBLE COMMENTARY, supra note 20, at 594 ("Both man's work and his secret thing, that is, his thoughts, will be judged by God. The heart attitude is important in God's sight, as well as one's public actions."). (emphasis omitted).
before the days of trouble come and the years approach when you will say, I find no
pleasure in them.”

Hoffman clearly integrates the faith of the Teacher into his professional ethic. He
states the function of a lawyer is “to adjust the disputes and to preserve the harmony
of individuals, and of society; to vindicate the laws of God and man; and to lessen,
or remove all the evils which arise from ignorance and vice.” Counsel giving
opinions, he writes, “should act as judges, responsible to God and to man....”

Having found meaning in life at the bar, Hoffman aims “to cultivate a passion for my
profession....”

Hoffman also resolves to firmly resist the temptations which beset all lawyers.
He cites the principle announced by Lord Erskine: “It was the first command and
counsel of my youth always to do what my conscience told me to be my duty, and
to leave the consequences to God.” He advises, “youthful ministers at the altars of
justice have great need, not only for the wisdom of man, but for that which is from
above, if they would preserve through life that purity, and perfect exemption from
moral contamination, with which they commence their interesting career.”

Hoffman therefore recommends that students of law thoroughly study the Scriptures.

V. CONCLUSION

One hundred and sixty years after the publication of Hoffman’s course, the legal
profession finds itself laboring under the sun and plagued by a sense of malaise.
Robert Kennedy, Jr., who like the Teacher was acquainted with great wealth and
power, described the essence of the problem in modern terms during a 1991 inter-
view: “Everybody basically has an empty hole inside of them that they try to fill with
money, drugs, alcohol, power—and none of that material stuff works.”

The profession has responded with a spate of critical writing and new law school
programs emphasizing legal ethics. As John Hagemann aptly puts it in his review of

102. Ecclesiastes 12:1.
103. Hoffman, supra note 4, at 745.
104. Id. at 764 (Resolution XXXI).
105. Id. at 773 (Resolution XLVIII).
106. Id. at 749 (internal quotation marks omitted).
107. Id. at 746-47.
108. See id. at 66, 726-28.
(introducing his critical analysis of the profession with the statement: “This book is about a crisis in the American
legal profession. Its message is that the profession now stands in danger of losing its soul.”). He rejects faith in the
professional ideal as a response to the crisis, concluding that it has “largely disappeared.” Id. at 372.
contributions by Mary Ann Glendon, Philip Howard, Anthony Kronman, and Sol Linowitz, however, these texts do no more than "round up the usual suspects" for "the decline of the world of law"—"law schools, large law firms, bar associations, judges, and even clients." The new law school ethics courses, which emphasize techniques such as videotaped and staged transactions, the study of attorney discipline cases, and inviting "real world" lawyers into the classroom, appear unable to overcome a "profound disconnect" that graduates experience between their classroom training and the "pressures to generate cash flow."

The message of Ecclesiastes and David Hoffman to the modern legal profession is that the solution is not to be found in writing, teaching, or tinkering with human institutions. The profession's need is spiritual, and the answer lies in faith. Ecclesiastes calls for:

a responsible, optimistic integration of life and faith. The result is that few books of the Bible offer as clear a challenge to our contemporary Western worldview. Enjoyment of life comes not in the quest for personal fulfillment, but in the recognition that everything comes from the hand of God.

Moreover, as the Teacher states at the conclusion of Ecclesiastes, faith, unlike law school teaching, does indeed operate at the disjuncture between learning and practice:

Of making many books there is no end, and much study wearies the body. Now all has been heard; here is the conclusion of the matter: Fear God and keep his commandments, for this is the whole duty of man.

The invitation of the Teacher, Hoffman, and this Essay is to rediscover the Bible, reading it to seek faith and to consider the application of its values to the legal profession. If this invitation is accepted, then perhaps we as lawyers will choose a driver who has no desire to go anywhere near the edge of the winding mountain road.

111. See generally GLENDON, supra note 1.
113. See KRONMAN, supra note 109.
117. Id. at 81 (quoting Robert Granfield, a Denver sociologist who has studied Harvard Law School graduates).
118. HILL & WALTON, supra note 14, at 298.