Digging Deep



Dinners at the O'Connor family house were boisterous affairs, full of arguments, counterarguments and laughter—all great early training for a legal career. It also gave the author the guts and determination to solve a generation's greatest mystery.



How Hoosier common sense unveiled Deep Throat by John O'Connor

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O'CONNOR: PHOTO BY JIM BLOCK; FELT: AP PHOTO/SCHWARZ

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It was a beautiful spring evening

for a lively Sunday dinner party with our daughter, Christy, and seven of her high-spirited classmates from nearby Stanford University—a night reminiscent of the large dinners with family and friends I enjoyed growing up in Indianapolis. There was the same sharp discussion, a bit of collegial argument, nourishment for mind and body. We had much fun that night in 2002, as expected. But quite unexpectedly, I heard some seemingly innocuous words that would alter my course and the courses of many others for years to come.

Since many of Christy's classmates had just returned from studying abroad in South America, I chose the occasion to regale my audience with details of my father's role as an undercover FBI agent in Rio de Janeiro during World War II. He had become probably the most identifiable secret agent the Germans had ever encountered, and was "made" by them, records show, shortly after he first disembarked in Rio. As I was telling the group about my father, one of my daughter's classmates, Nick Jones, volunteered that his grandfather had also been an FBI agent in counterintelligence during the war, and perhaps my father knew him. "His name is Mark Felt," Nick offered.

I was stunned by the name because I had believed for more than 25 years that Mark Felt was Deep Throat, the legendary anonymous government official who was Bob Woodward's secret and crucial source during his reporting on the Watergate scandal. Although he was featured in *All the President's Men*, the bestselling book by *Washington Post* reporters Woodward and Carl Bernstein that was later made into a movie, and had been the subject of intense speculation for almost 30 years, Deep Throat had steadfastly declined to reveal himself. His secrecy, in spite of the millions that might have been his if he had revealed himself, created a mystery that became a favorite parlor game of both political and journalistic mavens.

I had become intensely interested in Watergate as a young lawyer, and my experience as a federal prosecutor in the 1970s had led me to believe that Deep Throat must have been employed by the Justice Department, not by the White House as so many observers had concluded. Furthermore, I had concluded that among the possible "suspects," Mark Felt alone had the motive, means and opportunity to be Deep Throat. Now I was encountering the grandson of the man I suspected was this important historical character, and finding that the elusive giant resided just 40 miles north of our home. I told Nick not only that his grandfather was Deep Throat, but also why I felt that he had so adamantly refused to reveal himself for so many years. As a former Justice Department prosecutor, I considered Deep Throat a hero who had kept our justice system, and the Justice Department, free of political corruption. He was, therefore, deserving of our applause. Other prosecutors and agents felt the

same way, I told Nick. I offered to visit his grandfather, and explain my views to him.

I did not know it at the time, but I was about to embark on an intensely interesting trip—a journey, I came to realize, for which I had been training all my life. Sure, my experience working for the government had given me insight into the flow of information in corridors of power. And my legal work and education provided a framework for sorting out complex and even mysterious data. But what had led me to certainty about the identity of Deep Throat really came from years of family dinners in Indianapolis.

>>>> My great-grandfather, Michael O'Connor, was an Irish immigrant who arrived in northern Kentucky near Cincinnati at age 11 in 1850. He became a clerk in a wholesale grocery business and married an Alsatian girl, Carolyn Pfau, whose father was an important customer in the grocery business. Eventually the young couple moved downriver to Madison, Indiana, where Michael started his own wholesale grocery business. Family legend has it that the day after the town council voted down Madison as a major railroad depot (on the theory that river transportation would remain ascendant), Michael drove his horse and buggy to Indianapolis to purchase land. Then a small, sleepy town, Indianapolis, Michael thought, would soon be a busy hub of overland commerce, and he moved there in 1867, establishing M. O'Connor & Co. in a cannery and warehouse just south of Monument Circle.

As railroad commerce transformed the nation, the business (and Indianapolis) grew. Early in the 20th century, my grandfather William and grandmother Eleanor Carr took up residence at 1423 North Pennsylvania Street. Their family soon included eight children, and the rambling house, especially on Sundays, was known as the town's best spot to engage in rollicking debate, hear great stories and perhaps moisten a parched throat.

I was born in 1946, and by the time I reached grade school, M. O'Connor canned goods, carrying the "Hoosier Poet" logo (James Whitcomb Riley was an occasional visitor at 1423), were clearly on their last legs. With my grandfather now deceased, my grandmother and Aunt Patricia moved to 137 East 44th Street, which became the new debate forum. In the summer, the discussions moved to a lake—first to Wawasee, then to Lake Maxinkuckee and finally, with better highways, to Palisades Park, Michigan, at our grandmother's "Graystone" cottage.

These evenings always began politely with

small talk and friendly chatter. But the participants didn't come for the politesse; they wanted action, excitement, thrills. And they invariably got them as the evening progressed. As current events would be discussed, one person would try to engage another, especially one known to have contrary views. Eventually, someone would be goaded to throw down the gauntlet and make a forceful statement, to which another took strong exception. The game was now on.

My gentle South Texas mother was shocked when she first encountered the conversations at these venues, which seemed to be wild, unregulated, laughter-filled yelling matches. But what shocked her even more were the attitudes of the participants at the end of each evening's festivities, each of whom seemed genuinely complimentary of his opponents, and indeed ecstatic at the great excitement generated. What fun! What a great time this was! Can't wait 'til we do it again! It didn't take long, however, for my mother to recover from her shock and catch this same disease. She soon became one of the wittier participants.

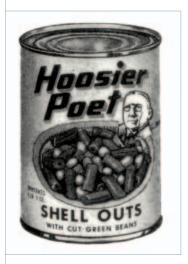
I learned at an early age how to survive these debates—first as an observer, and then as an occasional participant: Stake out the most reasonable position possible, hopefully drawing your opponent into an extreme case. Appeal to common sense, cross-examine for the jugular, bore no one, use both reason and humor, and make the other side look like the bad guy. Whatever you do, defend to the death that which you have staked out to be a sensible, true position. Unless, of course, you realize you are in trouble, in which case the graceful modification of position is a valuable art.

Of course, although I did not know it at that time, these family "discussions" helped prepare me to be a trial lawyer, following the example of my father and my Uncle Richard (whose son Bill is now an experienced litigator with Dann Pecar in Indianapolis). Gladiatorial skills, honed in family battles, would prove important.

So would homework, a lesson that permeated my life in those days. As my father raced me to Cathedral High School, then at 14th and Meridian streets, in his tiny 1960 Corvair, he alternated legal war stories with admonishments on the importance of hard work. These stories—generally featuring him and his partner, the renowned trial lawyer Jack Ruckelshaus—typically had Hoosier regularguy common sense prevailing over pretentious eggheadism. My parents and their friends—the Paul Muellers, the Patrick Fishers, the John Courtneys and others—kept current on political and moral issues, doing their homework in spite of the demands of

raising large families.

After graduating from the University of Michigan law school in 1972, I came to San Francisco, planning to get some trial experience before joining my father at the Ruckelshaus firm. As I began trying cases, first with notable San Francisco attorney Melvin Belli, and later with the U.S. Attorney's office, I realized Indianapolis culture had served me well. I knew I had to do my homework late at night and on weekends, so that when I made assertions



LOCAL FLAVOR The author's family's canning company did business in Indianapolis for more than 75 years.

or elicited testimony in court, I could hold my ground, confident that I could withstand the most withering attacks from an opponent (which usually paled in comparison to those launched in O'Connor parlors). And when I realized that my case had serious vulnerabilities, anticipating what a hypothetical relative would do to annihilate me, I settled reasonably before battle began.

Now, three decades into my career, I was confronted with perhaps the strangest case I'd ever seen. I had done my homework, and felt strongly about my position—that Felt was a hero, and that having him admit his identity while alive would show that the FBI was incorruptibly heroic during Watergate. But I had never taken on a "case" with so much history riding on the outcome.

Moreover, Nick told me that his grandfather had lost his detailed mem-

ory from the Watergate period, and I assumed that, at least for the moment, Felt would deny his identity when I first spoke with him. But, I wondered, did he even know who he really was? And if he admitted his identity, how could he prove it if he was unable to corroborate any details, and if he had publicly and privately denied it? Clearly, this was not a "case" for the faint of heart, but I firmly believed I was right, both about Felt's identity and also his heroism.

Plus, it was against my training to give up a principled position without a fight, and I wasn't about to yield my seat at the dinner table just because of a few obstacles.

>>>> When I went to Santa Rosa to meet Felt, I found a mellow, friendly man with a firm handshake who still had a leader's way of making others feel comfortable. It became quite clear, though, that Felt had no memory for detail. Then 89, he had suffered a stroke (CONTINUED ON PAGE 258)

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several years earlier, and had briefly lived at a nursing home. His daughter Joan, a slim, attractive college Spanish instructor, didn't think her father was faring well there, so she converted her garage into an apartment, hired a caregiver, and took in boarders to help out financially.

In spite of his frail condition, Felt had a strong sense of who he was. As a young lawyer hailing from Idaho, Felt had joined the FBI in 1942, when the "G-Man" (short for "government man") was the country's most revered, moral and clean-cut of heroes. Movie-star handsome (he resembled actor Lloyd Bridges), with a full head of sandy hair that turned white with age, Felt was suave, polite and dapper, and with his cool confidence, he made an ideal agent. An admirer of the administrative abilities, strong discipline and efficiency of FBI Director J. Edgar Hoover, Felt rose rapidly through the FBI ranks. Eventually he became one of Hoover's top aides and, when Hoover died in May 1972, just weeks before the bizarre burglary of the Democratic National Committee headquarters, Felt was his heir apparent.

Although Felt was the favorite of the Bureau rank-and-file to succeed Hoover, his stiff-backed refusal to whitewash the Nixon Administration during the ITT bribery scandal (an antitrust case brought by the government against ITT was allegedly dismissed in exchange for a campaign contribution of \$400,000) rankled the White House, who appointed instead L. Patrick Gray, a malleable political hack with no law-enforcement experience.

In spite of being passed over, Felt stayed on as Gray's top assistant, hoping to teach him the complexities of running the world's most vaunted investigative agency. Just weeks after Gray's appointment, though, the FBI faced a burglary investigation that potentially implicated the White House and/or the CIA. The FBI's reputation of incorruptibility was at stake, Felt realized. When the White House limited indictments to the original seven suspects, his worst fears were borne out, and Mark Felt became Deep Throat, the mysterious figure who helped expose a conspiracy of spying and sabotage, ultimately leading to the conviction of 40 officials.

That Sunday in Santa Rosa, when I turned to the subject of Deep Throat and

Watergate, Felt quickly turned serious, gripping his chair tightly, sitting up a bit and jutting his tightly clamped jaw forward. When I began telling him how I, as a former Justice Department prosecutor, believed that Deep Throat was a hero, a preserver of an incorruptible justice system, I saw his clear blue eyes melt, as if I were giving him absolution.

It seemed that he remembered only those key emotions and attitudes that had become hard-wired into his psyche. He remembered Bob Woodward, J. Edgar Hoover and the FBI, and he knew and loved his family. And it was just as clear to me that he knew he was Deep Throat and that he didn't want anyone else to know that. I could see him fighting to discipline

I could see Mark Felt fighting to discipline himself not to reveal his secret, while at the same time seeming quite pleased with my depiction of Deep Throat as a hero.

himself not to reveal his secret, while at the same time seeming quite pleased with my depiction of Deep Throat as a hero. While Nick, Joan and I were convinced from his reactions that Felt was Deep Throat, he did not admit it that day.

Perhaps 10 days later, by chance, Joan answered a phone call from Felt's former girlfriend, a French-born widow, Yvette La-Garde, whom Felt had squired about in the late 1980s after his wife Audrey passed away. Although Yvette's memory was also dimming, and perhaps because she was confused, she misread an article entitled "Deep Throat Exposed" in the Globe tabloid in 2002. The article's title had overpromised-there was discussion of Felt, but no real conclusion—but Yvette got the impression that Felt was finally confessing

"Why is Mark revealing his identity now?" Yvette demanded of Joan. "Revealing what identity?" Joan demanded in return. Realizing that Joan did not know the secret, Yvette retreated, finally relenting after Joan insisted. Felt had told Yvette years before that he was Deep Throat, but that he would never reveal it during his life.

Joan immediately confronted her father, relating her conversation with Yvette, and asked her father if he was really Deep Throat. "Well, if that's the case, then yes, I am," Felt confessed to his daughter.

In the ensuing days, Felt tried to backpedal, but the secret had been released. Somewhat consistently, he began to confide in his family that indeed he was "the guy they called Deep Throat." The family began discussing whether and how he should reveal himself. While Felt was decidedly reluctant at first, Joan appealed to his patriarchal pride, telling her father how the family would bask with him in his limelight. Perhaps the revelation would help Nick with law-school admission, or help defray Rob's college expenses. Soon, Felt became convinced that revealing his identity would help rather than harm his family. He would do it, he said, but only on the condition that his friend Bob Woodward would collaborate with him.

As a family adviser in these conversations, I thought this a fine resolution. Woodward, of course, could identify Felt without Felt's corroboration, so Felt's failed memory would not be a hindrance. The vision of the two on a heroic victory lap was exciting. It seemed that, now that Felt was consenting, his friend Bob would surely agree to a collaboration.

Unfortunately, in our phone conversations. Woodward did not share our enthusiasm. Ever the gentleman, Woodward politely declined to confirm or deny Felt's identity, a reservation with which he began all our subsequent conversations. Furthermore, he expressed reservations about Felt's ability to release him knowingly and voluntarily. Woodward's relentless refusals even led the family to doubt their patriarch. Perhaps Deep Throat was a composite source, they thought.

After several months of talks between Joan and Woodward, when it became clear that Woodward would definitely not collaborate, Felt directed that we could explore other options. However, now we faced a truly odd situation. Felt remembered that he had not been out to get Nixon, that he had known he had to act alone (he likened Deep Throat to the Lone Ranger) and that he had tried to keep the FBI free of political corruption, but there were few corroborating specifics beyond that—not a talk, a meeting, a conversation. I knew that we would be challenged by the media to present more objective "proof" of his identity. I had to have at the ready an explanation for every clue arguably pointing elsewhere.

In short, I had to do my homework, put my case together and be able to withstand furious assaults, just as I would at 137 East 44th or The Graystone. And convincing a publisher to print Felt's story might not be nearly as difficult as fighting the media and talking heads. So I had better be prepared.

FOR YEARS, MARK FELT had been a favorite candidate of amateur Deep Throat sleuths, but as time went on, the more authoritative voices began pointing to a White House source and ruling out any FBI or Justice Department possibility. White House insiders like John Dean and Leonard Garment both wrote books with this latter analysis. The University of Illinois at Urbana-Champaign journalism program had performed an intensive fouryear study of all known information, a project involving 70 bright and committed students. Their culprit, announced to great fanfare in 2003, had been Fred Fielding, a White House lawyer with arguable access to all pertinent information.

To be sure, there were tantalizing bits of evidence pointing to Mark Felt. For instance, a visit by Bob Woodward to Felt in 2000 raised suspicions, although Woodward claimed that he simply had visited to write a book on the FBI. The journalism class found this and other clues unpersuasive. In any event, while many Internet bloggers favored Felt, it appeared that the more knowledgeable insiders still looked for a White House candidate.

Over the following months and years, I did my homework, along with my bright paralegal, Will Rehling, whenever we could spare the time. Space and interest do not permit us to detail all the exercises we engaged in, but let me share a few examples.

Most observers pointing to a White House source astutely noted that Deep Throat seemed to know much of what went on inside the White House during Watergate. For instance, Deep Throat seemingly was the first to tell Woodward or Bernstein in November 1973 about a highly suspicious 18½-minute gap in a White House tape, then known only to a few close White House insiders. This "gap" occurred on the tape containing the June 20, 1972, Oval Office conversations, shortly after the burglary arrests. I never felt that knowledge of this "gap" disqualified Felt

because, as a well-connected Washington official, he may have had his own line into White House "scoop" and may have learned of it secondhand. Since I felt I could prove Felt's involvement through many other particulars, and since this knowledge by Deep Throat did not absolutely disqualify Mark Felt, it never shook my conclusion. However, I now knew I would have to present a skeptical publisher with something more solid than my own thought process, however sound I thought it to be.

Most observers had assumed that Deep Throat (a) actually listened to the White House tapes or was very close to someone who had, and (b) was the first of five sources to actually tell Woodward or Bernstein of the gap. I eventually determined that neither assumption was necessarily so.

The first tip-off came from rereading *All the President's Men.* The book implies

The great success of Woodward and Bernstein can be attributed to their embrace of Deep Throat's circumstantial evidence. Yet we found that publishers were rejecting our use of these same techniques.

that Deep Throat was the first to tell reporters of the gap, by placing his conversation with Woodward in advance of Bernstein's conversations with his multiple White House sources. But the book does not actually say that Woodward's source preceded Bernstein's. Indeed, I concluded the reverse was likely true, and Woodward was cleverly disguising the temporal relationship by spatial sequencing. Therefore, the strong possibility existed, in my view, that White House sources first talked to Bernstein about the gap. This seemed to be just plain common sense.

Secondly, rereading the Washington Post article from November 8, 1973, about the statements attributed to the five sources, gave me all the confirmation I needed. The article did not say, as many had concluded, that five sources had heard the tape, but only that they "confirmed ... difficulties" with the tape. To me, this wording said loud and clear that at least one source did not actually hear the tape.

Four of the five sources in the Post article had described the gaps as harmless glitches. The other, apparently not a White House loyalist, used words like "deliberate injection of background noise" and "feedback" to explain that the gap was the result of tampering, as opposed to an innocent mistake. This was not the language of political corridors, I realized, but of forensic laboratories. And that likely meant an expert from the FBI, which had the finest forensics lab in the country. Bernstein, I reasoned, had described the sound of the tape to Woodward, who had shared those observations with Deep Throat, who then consulted his friends at the FBI forensics lab to arrive at his conclusion. So, rather than disprove Mark Felt as Deep Throat, this article supported my conclusion. This, again, was not rocket science, but simply the drudgery of homework.

Having disproved this and other pieces of "negative" evidence, I also marshaled evidence affirmatively pointing to Felt as Deep Throat. One key piece of such "positive" evidence was Deep Throat's knowledge of the so-called Kissinger Wiretaps, highly sensitive wiretaps put on 16 government officials and newsmen by the White House in the wake of the May 9, 1969, leak of the controversial Cambodian bombing. Because logs of these tapes were not kept in the normal FBI files, only eight or nine FBI and White House officials would have had knowledge of them, and the only two Deep Throat candidates among these were Alexander Haig and Mark Felt. Of this limited group, only Felt had no responsibility for their placement, and Haig could be ruled out as Deep Throat on several other grounds. Thus, in my reasoning, Deep Throat's knowledge of the Kissinger Wiretaps was proof positive that Felt was Deep Throat. While perhaps this was clear thinking, it was certainly not deep thinking.

We became convinced that we had an airtight case that would convince a jury beyond a reasonable doubt in any jurisdiction in the country. However, I soon learned that the jury of journalism is quite different than the legal jury of 12 citizens. The same nature and quantum of circumstantial evidence that would convict Scott Peterson on death-penalty murder, for example, would not be enough to get our story published. Journalists and publishers, it seemed, favored direct eyewitness testimony, even

though lawyers know that such testimony is often suspect, while circumstantial evidence, like fingerprints and strong motive, is more convincing and less disputable.

Ironically, the great Watergate success of The Washington Post and Woodward and Bernstein can be attributed to their courageous embrace of Deep Throat's use of circumstantial evidence to connect the dots and infer a wide-ranging conspiracy of spying and sabotage. Yet we found that publisher after publisher was rejecting our use of these same techniques to prove Deep Throat's identity. We needed to find an aggressive, courageous publisher who would look at our evidence with both shrewdness and passion. In essence, we were looking for someone with a taste for the same kind of brave statements that were made and defended at 137 East 44th and at The Gravstone—one who relished the battle, and would do the homework necessary to prepare for it.

Almost in desperation, I realized we needed to try for Vanity Fair magazine, which clearly was unafraid to publish controversial, cutting-edge articles. I hit it off well with David Friend, the personable, multitalented editor of creative development. Friend became more and more interested as I presented our case, and finally said, in effect, I am convinced, and if you can convince our best fact-checker and our legal expert, let's do it. So I had a jury of two: Mary Flynn, the magazine's deputy research editor and ace fact-checker, and Robert Walsh, the bright, capable *Vanity* Fair legal-affairs editor.

Flynn did the bulk of the digging, and certainly had the requisite smarts and the energy. I was gratified that finally I was talking to an engaged juror searching for the truth, not a corporate executive driven by fear. I had tremendous fun with Flynn, and once hooked on the issue, she needed no prodding from me. After many hours of evening and night homework, she became a true believer. Walsh then did his due diligence and was satisfied.

To the credit of editor-in-chief Graydon Carter, he refused to brook any suggestion of softening our conclusion to say that Felt might be or probably is Deep Throat. Nonsense, he said, we think he is Deep Throat, so let's say it. The rest, as they say, is history, and the piece I penned for *Vanity Fair* was published in the magazine's July 2005 issue, creating a huge media buzz.

On May 31, 2005, Vanity Fair's first press

release came out. I watched in shock from the magazine's headquarters in New York as a presidential press conference was interrupted by ABC's Charlie Gibson, who announced an impending interview with me. A Vanity Fair publicity exec scurried to ready our phone connection.

The following day was a humble Hoosier boy's dream, as I visited with Katie Couric and Diane Sawyer, and chatted by phone with Paula Zahn, which in effect either took 20 years off my life through excitement, or put 20 years on it by melting coronary plaque. Although known by my Indianapolis friends to stammer in the presence of attractive females, I for the most part spoke in complete sentences, I am proud to report.

I FELT CERTAIN THAT Woodward and Bernstein would not confirm Felt's identity upon publication of our piece, while David Friend thought the *Post* could not sit on such an earth-shaking revelation. We were both right. The explosive force of the story ultimately compelled the reporters, under pressure from the paper, to confirm what we had revealed. As Bernstein said so aptly, they didn't control the story; the story controlled them.

With the confirmation, the family now had at least part of what it wanted: recognition that its patriarch was Deep Throat. The family then gathered in its modest Santa Rosa family home to watch television, and to determine whether the rest of the country shared their belief that Mark Felt indeed was a great American hero.

The results were better than they had hoped. An early CNN poll showed more than 80 percent in agreement that Felt was a hero. The media coverage was generally favorable, with 400 newspapers featuring Felt's picture on the front page. Letters and packages began flooding into the Felt home from around the country, thanking Felt for the courage to stand up for his beliefs. As the family sat together in Felt's converted-garage apartment opening the mail, Felt said what made him happiest was being able to enjoy this triumph with his family.

I returned to California at the end of the week, and my daughter Christy and I immediately drove to the Felt home. I was met by a man who was as happy a human being as I had ever encountered. Felt's grin was broad, and his eyes were sparkling as he shook my hand and complimented me. I felt like Eisenhower entering Paris.

I now realized that, even though Felt had evolved toward a belief that he would be perceived as a hero, he still had harbored some uncertainty even as the magazine went to publication. The outpouring of enthusiasm, however, had removed all doubts. This man of honor, who had devoted his life to his country, was finally being recognized as a hero. And each of the family membershis three grandsons, his daughter Joan, and his caretaker Bola, together with his son, W. Mark Jr., daughter-in-law Wanda, and grandson W. Mark III in Florida-enjoyed the moment with a sense of family pride.

I got some of the same treatment. My immediate family in California and the bulk of my extended family in Indianapolis were proud of my involvement. Normally, the O'Connor family does not need Vanity Fair or any publication to tout its exploits. Rather, it is inherent in its collective psychology to publicize without external assistance every O'Connor victory, real or imagined, from the cutest babies ever born, to the best weddings, to the greatest practical jokes. The fact that this particular O'Connor was publicized in the media amounted only to an increase in the degree, not kind, of pride that our family has always taken in its members. To celebrate, the Indianapolis contingent held an impromptu party featuring beer and corn dogs. As the tape of my television appearances was played. I was e-mailed numerous comments about my pink tie, few complimentary.

Outside of helping the Felts enjoy the moment, the most satisfaction I received from this experience was interacting with my relatives and old friends by e-mail and phone. I contributed to class projects for nieces and nephews, and helped with fundraising for A Caring Place, a program for memory-impaired elderly, run in Indy by my cousin Sister Susan Dinnin. However, sadly, I still wait with bated breath for an invitation from Bob Walke, Cathedral class of 1964, to speak at the monthly class lunch in Broad Ripple.

Felt's flinty moral courage had been instilled at his boyhood home in Twin Falls, Idaho, by parents with quiet but strong religious values. I realized as well that my early dinner-table training had given me the strength to advocate for what I believed to be true. I also came to appreciate anew that the legal profession's emphasis on argument could, when practiced well, yield not merely rhetorical fool's gold, but the refined and polished gem of truth.

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