

Hello, I'm Terrence McNally. Welcome to Free Forum: A World That Just Might Work. I'll be speaking today with James Thornton, founder of ClientEarth, the world's preeminent environmental law group with 300 lawyers and others holding governments and companies accountable across the globe. And he retires as the group's president later this month. You can learn more at Client Earth, one word, clientearth.org.

On Free Forum, we explore the lives, the work, the ideas of individuals that I suspect have pieces of the puzzle of a world that just might work. We look at politics, economics, environment science, health, culture, all based on the fact that I believe we can do better and I want to find out how.

The show streams weekly on the Progressive Voices Network on tunein.com and podcasts are available anytime, anywhere on Apple Podcasts, Spotify, most major podcast sites, and at my site, terrencemcnally.net.

It has been 26 years since I last recorded a conversation with today's guest, James Thornton. So we're both older, hopefully wiser, and it means we've been at our current work for a long time. I've recorded over 750 conversations like this one, looking for a world that just might work. And James has done a bit more than that.

He's written several books and founded and led an organization that has used the law to serve the environment and confront the challenges of climate change in countries all over the world. We'll talk about the evolution of his approach to this work and the remarkable relationships and achievements of ClientEarth as well as its ongoing work - It's only been in the US for three years at this point - so I'm not going to go into a lot of that in the introduction as I often do.

But let me just say that what I learned in a recent presentation by James and the leaders of ClientEarth USA gave me hope, something that can feel all too endangered these days. And I recommend you stay tuned if you could use a bit of the same.

James Thornton is the founder and soon to retire President of ClientEarth, a member of the bars of New York, California, and the US Supreme Court. James was one of the founders of the Los Angeles office of NRDC, Natural Resources Defense Council in the early 1990s. In 2007, he took that experience to Europe and founded ClientEarth. With offices in London, Brussels, Warsaw, Berlin, Beijing, and Los Angeles, and working in five countries in Africa, ClientEarth has facilitated 48,000 environmental enforcement cases.

In addition to being an Ashoka fellow, his many awards include the Financial Times Special Lifetime Achievement Award for innovation in Law. He's also a Zen priest. His TED Talk has been viewed by more than 1.7 million people. And his books include an environmental legal thriller, *Immediate Harm*; a volume of poetry on science and the environment, *The Feynman Challenge*; a book that we talked about 26 years ago, *A Field Guide to the Soul*; and another one that he co-wrote with Martin Goodman,

ClientEarth, which basically tells the story up to that point of ClientEarth. And his latest is one called *Nature, My Teacher*.

Welcome again, James Thornton, to Free Forum: A World That Just Might Work.

Thornton:

Thank you, Terence. What a pleasure to be back with you 26 years later. We're both still standing and both still doing it. It's true.

McNally:

And those were the very early years of when I was doing the show on KPFK. And I went back and I had thought it was the early 2000s, but in fact, before the millennium.

Let me tell listeners, we're recording this conversation Monday, April 14th.

So my first question always, at least for the last 20 years or so, is I want listeners to get a feel for the people in addition to the work or the books or the projects we might talk about. So my first question is always tell us in your words about your path to the work you do today. And feel free to go way back. Childhood experiences, mentors, turning points, moments of decision. And I often include the word briefly when asking that question of guests, but not this time. We've got an hour and I think that your path and the development of your work is very much what we're talking about anyway. So feel free to take your time.

Thornton:

Great. And maybe we can have a podcast, volume one, two, and three.

McNally:
(Laughs)

Thornton:

I had to say that... Thank you for that.

McNally:

I see what you're saying. It's like if we really go into it...

Thornton:

(laughs) This will...

McNally:

...be more than an hour. I know...

Thornton:

But thank you. Thank you for the very warm welcome.

McNally:

By way, I wouldn't mind... You and I were talking off air before we started that I went back and reread the 1999 interview, and it wasn't about the law. It wasn't even that much about what we think of as the environment. It was very much about life and our experience and our relationship to nature and to each other. And if this one focuses on the law, we could do another one that focuses more on that other stuff.

Thornton:

Well, that would be cool. I mean, the new book actually goes to that. So it's a great question. And how often is a person asked, tell me your whole life. It's a wonderful question. (laughs) And then how to say it in a way that is meaningful and doesn't take up the rest of your day.

Well, I maybe start with I was super attracted to nature as a boy, as a child. I grew up in New York, in Douglaston, New York, so it was in Queens, one of the suburbs. And my father was a law professor. And I was extremely attracted to the natural world, and my parents were both great teachers for me. And then my first-great teacher beyond the family, was a woman called Alice Gray, Miss Alice Gray, who was an entomologist at the Museum of Natural History in New York.

I, of course, loved the Museum of Natural History in New York. It's one of the great, great places, and if you're a kid who loves nature, you'll get lost in there. And I did. and I spent hours looking at live tarantulas. Back in those days...Now you can go in to a pet store and see tarantulas, not when I was a kid.

So I conceived the need of a tarantula, and I called up the Museum of Natural History, and they said, "Oh, well, yes, yes...Call Friday afternoon and there's somebody who will talk to you. So I started this relationship every Friday afternoon with a woman at the museum, and ultimately she agreed that she would find a tarantula for me - very hard in those days - because I wanted to do tarantula mating experiments, which had never been done before. And I was like eight years old or something like that.

So my mother took me into the museum because I was young, and we knocked on the door and it opened, and there was a short rotund woman with a huge hearing aid. And I said, "Hi, I'm James Thornton." And she laughed and laughed and laughed. And she said, "Oh, Mr. Thornton, I'm deeply deaf, so I can't tell people's tone of voice at all. I can only go by their grammar. So I assumed you were 45 years old." (laughs) And that began a wonderful relationship with Ms. Alice Gray, who was a true teacher. Her enthusiasm and deep, deep, deep knowledge gave me the idea that I could encounter these beings who had total love for something, and knowledge that you could explore forever, and who would encourage me in their dimension.

McNally:

It just seems like such a unique gift. I mean that you bumped into or gave yourself, but wow.

Thornton:

Wow. Oh no. And it went on for years. And I think of her frequently, and in the Feynman Challenge, one of...I have three books of poems. One of them is Feynman Challenge, the poems on science. There's one about something that she told me about moths and stuck with me, and was a wonderful story. She was a great storyteller. And in the newest book too, *Nature, My Teacher*, she gets one of the first essays. So she's really stuck with me.

And I guess generalizing from that, I've gone along with a path of heart. What I love leads me to people and leads people to me. And these relationships are what I've really built my career around largely.

So by the time I was at university - and I graduated in 1976 - it was clear that there was an environmental problem going on, and I thought, "Well, I love biology, I'll do something about it." And I'd been studying biology as well as philosophy and other stuff at university. And I called up a guy called John Todd who started the New Alchemy Institute in Cape Cod just a little while before. And I thought, "Oh, his work sounds so great." And he didn't have an opportunity for me.

So I said, "Oh, well that's a shame. What do I do? Well, I'll go to law school." And I went to law school, not because I wanted to - I mean, my father was a law professor, so it was a natural thing. But I had the idea that if I studied law, then I could figure out something to do with it for the environment or to take care of the planet. Because as a biologist, I would watch what I loved go down, and it would be falling in love with things and then watching them go. And that was a hard path.

And I thought, I'll do that on the side - and I'm still an avid birdwatcher, for example - but I will see what I can do with law. And there was not even an environmental law course when I went to NYU law school, and there was nothing.

McNally:

By the way, you're saying there wasn't one at NYU Law. Was there one anywhere at that point?

Thornton:

Not as far as I know....

McNally:

I wouldn't think so...

Thornton:

1976.

So I studied law, and then in my third year... At NYU, they had clinical programs. That is now typical in law schools all over the world actually, but NYU was a pioneer at having them, and I was the Editor-in-Chief of the Law Review, which is a magazine that students run at law schools.

And one of my editors came in and said - in the second half of my last year - said, "James, hey, there's something you've got to do. You've got to sign up for a clinical program with NRDC." It's an environmental law group. You will have never heard of them. But I just finished a clinical program with them, and I tell you what, they're amazingly great lawyers and they're extremely eccentric, and I think you'd fit right in."

McNally:
(laughs)

Thornton:

So that was my old friend and still friend Fred Harris. And I thought, what a sales line. So I went in to the clinic and loved it, loved the people, loved the work. And then coming out of law school, I went to them for a year. And then they didn't have a longer position cause they were a startup in those days. A poor startup. Now they're a thousand people and an uncountable amount of money, but it was tiny in those days, and they had no position.

So I went off to a Park Avenue law firm, and it was not for me. I was doing mergers and acquisitions, and I lasted about a year before the partners very kindly said, "You're a really smart guy, but you don't seem very happy here. Wouldn't you be happier somewhere else?"

McNally:
Good for them.

Thornton:
Yeah, it was a nice way to fire me...

McNally:
And they were right.

Thornton:
Oh, they were totally right. Yeah. And it wasn't exactly firing, but they were smart guys.

And I knocked on the door at NRDC, and the result of that was that they had a new dream, which was to start an enforcement project because Ronald Reagan was in charge in those days. Right at the beginning, it's a little bit like what's going on now, although it was less disastrous and more polite in those days. But he decided they weren't going to enforce the environmental laws.

They couldn't get rid of them, they thought, but they decided they wouldn't enforce them and thereby accomplish the same things because they also told polluters that they wouldn't enforce them.

So we had the idea that some laws anyway could be enforced by citizens. Nobody had done it before, but what if we set up a little project with one lawyer and one chemist and one what we called "secretaries" in those days?

And that was me as the lawyer. And I had some senior advice from a couple of great lawyers at NRDC, but I had never brought a case in my life before. I thought, "Well, okay, we'll do this." Then within 60 months, I brought 60 cases against water polluters, including the biggest steel company in the world at that point, Bethlehem Steel. And within the next couple of years, we won all of those cases and did a whole bunch more, and embarrassed the government to start bringing cases again. And those were the days when one could embarrass the government.

McNally:

That is a difference between Reagan and Trump. Yeah...

Thornton:

Well, it is. And it was very interesting because the first administrator of the US Environmental Protection Agency was a Republican who'd been a governor, Bill Ruckelshaus, genuine, genuine, good environmental man, and then he left. Reagan put him out and put in Anne Gorsuch, the mother of current Supreme Court Judge Neil Gorsuch. And famously Reagan asked her, "Anne, if I appoint you, will you bring the EPA to its knees?" And she said, yes, and got appointed.

After I embarrassed them - I can't take credit for the whole thing - but she left and a Ruckelshaus came back, and I got an invitation from Ruckelshaus to come and have lunch with him in Washington. And I thought, "Wow, I'm like 26 years old. This is the head of the EPA calling me in. This is totally cool."

It was even more than that because I got there and... I thought we were going to have a brown bag lunch in his office, and he had every environmental enforcement lawyer from the EPA in a huge conference room. There were, I don't know, a couple hundred people, huge number of people. And he was in a dais over there, and I was on a dais over here, and he had a microphone and I have a microphone, and he said, "Mr. Thornton, thank you for joining us today. Could you give us a seminar in how to design, bring and win an enforcement case because we seem to have forgotten while you have been carrying the torch."

McNally:

Wow.

Thornton:

God bless the guy. So I did. And they got back into the business, and then I left that project and moved to California and set up the LA office of NRDC. And it was wonderful to see for me there that citizens could make a difference.

McNally:

James, let me just cut in for...I have a comment and then a question. And the comment is - make a difference, not just in winning the suits, but in actually the leverage point of - with the right people in government- of actually influencing their ability to do their own job. That's very exciting.

And you mentioned moving to California, working with NRDC in California, and when you tell the story about being one of the founders of the LA office, do tell us who suggested you do that?

Thornton:

Oh yeah. So here, actually by that point, I was studying Zen because I was...By the time I moved to California, I guess it was in my early thirties, and life wasn't making sense in any way.

And I had thought I would find the meaning of life by studying philosophy, and by the end of university I thought, maybe not. Then, by falling in love and having a long-term relationship, and I did, and it didn't work out as many relationships don't, that's not working. Okay, by dedicating myself heart and soul seven days a week to cleaning up the environment, which I did and very successfully, but that didn't do it. So I thought, "Well, what am I going to do?" And Zen was the last thing I could think of. It was...

McNally:

Let me ask a question, which I don't think I've ever asked anyone else, which is there are books, there are classes or... but this is... we're talking just a little prior to 1980....?

Thornton:

Yes. So this was slightly... ...so maybe early eighties. Yeah.

McNally:

Okay. What was the inciting incident? Not the feeling that you needed something because the other things hadn't worked, but how did you find Zen?

Thornton:

Well, the inciting incident was that I found myself one morning at three o'clock staring into the mirror, looking at myself and reciting, "I'm James Thornton, 33. Oh,

that's right. I'm 33 years old. I'm an environmental lawyer. I'm James Thornton. I'm 33 years, I'm an environmental lawyer," over and over again. And it was one of those moments when you step out of yourself and watch.

So I watched this person say those things, and I thought, "This is so interesting. I wonder if this guy is having a breakdown, and what can I do to help this poor guy?" And that was the immediate reaction. So I started, I'd been just out of interest reading books about Zen, and around that time, a little before that, I think a book by the great American writer, Peter Matheson, had come out about his Zen experience. And I'd been reading Peter Matheson for years.

McNally:

Most of his writing is about nature.

Thornton:

It's wonderful nature writing, and even his novels have a lot of nature in them. And then he wrote a very wonderful book that became famous called *The Snow Leopard*, and I love that. Then one after that came out, which was called *Nine Headed Dragon River*, which is the long name of a river in Japan, where there's a famous monastery. That was his personal story of picking up Zen. And he studied with a guy called Bernie Glassman in New York.

The book though begins with a wonderful incident in which a bunch of Zen masters have gathered to help dedicate a temple in upstate New York, a Zen center in upstate New York, and there's an island that they're going over in a rowboat and like 10 Zen masters get into the boat and it looks very, very tippy, and only one is standing on the shore. And they say his name is Maezumi Roshi, Japanese Zen master, and he's standing on the shore in Peter's recitation of the story, and they say, "Come in, come in, come in." And he looks at the boat and he looks at them and says, "Bye-bye," waving. And I thought, clearly the smartest Zen master in America, he's the only one who's not going to sink, so let me go study with this guy.

And so that's why when I finished that work, I moved to California. NRDC had an office in San Francisco, and I started to go down every minute I could to study with this guy Maezumi Roshi. And then after a few years of studying with him, one morning at three o'clock in one of those interviews, he said, "Why don't you find some work to do down here? There are a lot of environmental problems." And I thought, "Wow, okay."

By that time, I knew that Sierra Club's Legal Defense Fund, now called Earth Justice, had tried and failed to set up an office, and the Environmental Defense Fund had tried and failed to set up an office in LA, so I knew it wasn't easy, but he was my teacher and I loved him. He was another great teacher for me. And I said, "Okay, I'll try." So that was the origin of the LA office of NRDC, my Zen teacher, Maezumi Roshi's saying, "There's a lot of environmental problems. Why don't you come here and fix them?"

So that's how it worked. And I thought, "What am I going to do?" NRDC said, "We'll give you 12 months of salary, but no other help. You've got to figure it all out. We have one name. You can go and talk to a lady, wonderful woman called Liz Mandel." but they said, "We're not going to fundraise. You're going to have to raise all the money. You're going to have to come up with the program, and you're going to have to hire everybody else."

McNally:

I wonder if they had a deal with the roshi.

Thornton:

I don't know. I don't know. His Zen center needed fixing up. I think he would've done a better deal.

Anyway, my first meeting was a wonderful woman called Liz Mandel, who's a very wealthy woman. And she was interested in the environment and she said, "Well, look, everybody comes here to raise money in LA and then they go off and they do their work elsewhere. Are you going to move here?" And at that point, I was living in San Francisco and I had no urgent reason to move, but I said, "Certainly I'll move here next week." And she said, "Great, I'll write you a check for a hundred thousand dollars," which in those days was real money. And that was the beginning of the LA office of NRDC.

I mentioned that my own evolving path is always following the heart and then meeting the right people and creating something together. And that's what happened with Maezumi Roshi and the LA Office of NRDC. No one working there now, other than one of my partners in setting it up, knows that story, I guess. But he does.

There are several chapters in between - but the next big path of heart takes me to the UK where... So the man who would become my husband had lived on and off with me in Santa Fe, but couldn't stay. It wasn't easy for a gay couple at that point to live here together. So I moved to the UK and I had an Irish passport.

In the meantime, after setting up NRDC, I set up a meditation organization and then a psychedelic research institute, but I wanted to get back to using law for the environment because things weren't getting any better. And those other things, it was all quite consistent for me. So it has to be full dimensional work. And I was offering new dimensions to people with meditation and then hoped to help create psychedelic medicine because I thought that would allow people to have experiences that would ease their dying, but also for the living to connect with the natural world and be motivated to have a larger perspective.

McNally:

Let me cut in for one second, just to share... You were saying before how you reached

out to John Todd, but there was no opening at that point. At about that same age when I was... 1973, so I was 25, I reached out to Stanislav Grof.

Thornton:

Okay.

McNally:

Who at that point was doing the psychedelic research with terminal cancer patients, paid for by the state of Maryland. I had interviewed him for a documentary I was making. And I then wrote him and I said, "This is the work I want to do. I would love to work with you." And I did not get a return answer until six months later when the state of Maryland just sent me a short note that said he was no longer being funded by the state of Maryland, and they weren't sure where he was. But when you were telling the John Todd story, I went, "Wow, there we are - kids looking for mentors and big dreams.

Thornton:

No, that's really interesting. Well, that happens to me now at ClientEarth all the time. And I'll get back to the ClientEarth journey, but where brilliant, young lawyers from all over the world say, "My dream is to use my talents to save the environment, and there's no place else to do it. ClientEarth is a shining beacon. Let me join you."

So we've moved there and I discovered there are no lawyers working for the environment in Europe, pretty much just none, big surprise. Not in the UK, not in Brussels. There was not a single lawyer on the side of the environment. There were a lot of activists and policy people, but no lawyers.

McNally:

... but then you must have also kind of wondered why was it that the US had it happening and they didn't?

Thornton:

Well, it's a great question, and for me, the answer is that we needed a civil rights movement in the United States because of the suppression of Black people. And they didn't have that in the EU. They didn't need it in the EU. So what you had is you had lawyers get involved to defend the rights of Black people in the Civil Rights movement pretty early on. A lot of that was paid for by the Rockefeller Foundation, and then the Rockefellers, and then another American foundation called the Macintosh Foundation saw the value of that.

And then when the environmental movement started up, they thought, "Aha, this is going to be as controversial and difficult in its own way as the Civil Rights movement was. They need lawyers." So these two foundations were the earliest funders of lawyers for the environment. And of course, it turned out to be very powerful and helpful. So from the beginning, almost right from the beginning, you had lawyers

involved in the United States, but not in Europe because they never went through that same evolution.

McNally:

Thank you. Thank you. Yeah, that makes sense.

Thornton:

And so I got there and I was amazed, or as they say in Britain gobsmacked, that there just weren't any. And I thought, wow, great policy people, great activists, but it would all be so much more powerful if it was in the mix we had...

McNally:

... if they had this tool. Yeah.

Thornton:

So it took off like wildfire when I set it up, and about three years in, we hired our first Italian lawyer. Now I think we have lawyers from 33 countries, something like that. And it was a super smart young guy, and I said, "Gee, I'm just curious why you could do anything, and why did you join? How did you find out about ClientEarth?" And he looked at me like I was an idiot and said, "What do you mean? How did I find out about Klein Earth? We study your cases in law school."

And I thought, really, this is only three years in, and you're in Rome and law school and you're studying our cases. So I thought, "Wow, this is taking off fast." And then it grew very quickly. In the early years we doubled every year, and until now, as you mentioned, we're 300 people, about 150 of them lawyers. And you missed a couple of offices. We also,

McNally:

I got it from a list, but even as I was reading it, I knew it was out of date.

Thornton:

With ClientEarth, there could always be a new office since yesterday. So there's one in Madrid as well. And the newest one in Asia is in Tokyo, now it's both Beijing and Tokyo, and I'm sure there'll be another in one of the Asian countries. That's my hope, pretty soon.

So again, the work there took off very fast. And what I was doing was bringing the intellectual DNA of the American practice of environmental law into these very, very different cultures. And big question: Would it work? No one had ever done it.

McNally:

I'm not a lawyer, but it's my sense that the US is the most litigious society in the

history of the earth. And so that question of would what we do in the US work here is not just an idle one.

Thornton:

Well, that's right. I was often confronted in, first of all, in England. I started in England and became an English lawyer as well. So I would propose that we do these things and people in environmental groups would look at me and say, well, that all sounds very good, but you're a hyper aggressive American. That phrase was sometimes used, that phrase. And one of them who was a very senior person at WWF- World Wildlife Federation said, "Well, we don't do that here. We are very polite people and we have conversations and solve things." And I thought, "Really, that's why there are no environmental problems in Europe. You've really solved them all."

And then I got to Brussels, which is the Washington DC of Europe, of the EU, all the countries go there and they make the laws and then the laws come back...

McNally:

The parliament of the European Union is there, et cetera.

Thornton:

Yeah, very much like the Congress of Europe as it were.

And I went there and I was just at the beginning, you're always eking out as a charity, so you're always begging for money, but being a Zen priest, it's normal. The begging Bowl is comfortable. So I go begging for money to start things up, and I finally got the money.

So I had three lawyers with me in London, and I got money for one lawyer in Brussels, and she's very brilliant and she's still there. And she was really young at the time, and she and I went to see the chair of the environment committee in the parliament of the EU and explained what we wanted to do, and we wanted to give legal support to not only the NGOs, but also to the good guys in government so that we could help him write good laws and we could help the commission with the enforcement of these laws.

We knew how to do all this, and there were no lawyers on the side of citizens doing it. And he said, "Wow, music to my ears. Look, I'm the chair of the environment committee in the Parliament in Brussels, because I'm on the side of the environment. That's why I'm here. But here's what happens. We are not lawyers in the parliament, and we have almost no lawyers even in the Parliament to help us. I only get a few hours of legal help every year, and we're writing all these laws. It makes no sense.

So here's how it works. So I'm the chair, we have proposed a law, and then on the one side we have these nice environmental lobby groups come in and say, "Do it right, be

strong, use the precautionary principle. And he said, “Well, I agree with them, but that’s not much help.”

On the other side, BMW comes in and they’re represented by five extremely highly paid lawyers, and they give me 90 pages of amendments to the bill. They’re beautifully crafted amendments. And the lawyer spends an hour telling me why these amendments are good for BMW, Germany, Europe, and the world.”

So he said, “On one side you have all of this heavyweight, nicely done stuff, and on the other side you have all of these airy ambitions, and so there’s no parity. If you’ll come in and oppose the lawyers for industry and help us, we will be in much better shape and we’ll be on a level playing field.

So we’ve been doing that ever since. There are now 60 people in Brussels doing all of that and supporting the right laws and supporting the European Commission when it does the right thing. I mean, we sue them of course as well, but you have to sue people to keep them on their toes. But not that long ago, we came in court on the side of the commission against the chemical manufacturer’s group who was of course trying to prevent any good regulation of chemicals.

So you look for... You used a very good word earlier on - “leverage.” Where’s the maximum leverage? How can you move things? And then the next big leverage point for me was in China. So I got invited to go to China by the Supreme Court of China.

McNally:

And when was that?

Thornton:

It’s around 12 years ago. And by then there was a ClientEarth reputation in Europe, and people knew about the work, and the work was going very well. And we had brought a bunch of cases. And the first case there, I had to demonstrate that you could bring cases like in the Reagan administration. It was very similar that you could bring cases under EU law as a citizen group and win and make a difference.

So we did that with air pollution. Nobody had ever enforced the air pollution laws in Europe in any significant way. And according to the commission, 400,000 people were dying early of air pollution every year because of all the diesel cars and coal-fired power stations. So amazingly, the air pollution was much worse in Europe than in LA.

In the UK, then we brought a case, we won it, went all the way up to the Supreme Court, got the first environmental injunction out of the Supreme Court of the UK. And then we took it to the European court, won there, which allowed us then to enforce this law all across the EU. Immediately went to Germany, the heart of the German motor industry, where they made all the diesels in Stuttgart, Dusseldorf, Munich, the

heart of Mercedes, BMW, Porsche, and Volkswagen.

Won those cases, and got judges to ban diesel vehicles from coming into the center of the cities, which freaked the German motor industry out, but meant that within the first year after those victories that the sale of diesel engines went down 25% in Germany. That's beautiful leverage.

And my hope at that point too was that we were teaching them a useful lesson in terms of where their industry should go, because I knew that the Chinese were way ahead of them on electric cars. And I knew from talking to them that they were going to stay addicted to producing diesel engines for as long as they could, because they were really good at it and all comfortable and nice, and they made good money. And they were never going to get off that until they were totally slowed by the Chinese. But if we could drive a wedge in there, we would give them the incentive to move faster. And they did. They're still being slaughtered by the Chinese...

McNally:

Right, right. Because the Chinese didn't stop moving...

Thornton:

That's right.

McNally:

They had a head start and they didn't stop moving. But they were comfortable and would've allowed themselves to be not destroyed, but really blasted, and by making them uncomfortable, you actually helped their survival and growth.

Thornton:

That was the interesting win-win for me because we cleaned up the air hugely. We demonstrated that citizens could enforce the law, which is now a frequently done thing in the EU. There were virtually no cases enforcing environmental laws, and governments were poor at doing it because citizens couldn't show them up like I did with the Reagan people. In Europe, people are still polite enough to be embarrassed.

So everyone is doing a better job now because we started this revolution really in using the law and enforcing the law. And then you get these good consequences like impelling the German motor industry to modernize - again, good for the air, good for people's health, but good for the economy. And I love it when you do all...

McNally:

...the thing you said about they would come to the EU environmental desk and say, good for BMW, good for Germany...

Thornton:
(Laughs)

McNally:
Turned out during intervention, did the same thing.

Thornton:
(laughter) I've never seen that, and that must be what spurred me. That was great.

So then I get invited to Beijing, and by then we've demonstrated this is possible in Europe. And, of course, I'd done it in America earlier than that. So I get invited by the Supreme Court because they say they are writing a law in China to allow environmental groups, citizen groups to sue polluting companies, including those owned by the state. So of course, I have to take the invitation and go. And I looked at it and they had pretty decent laws, but they weren't being enforced very well.

My first trip to Beijing, I'm in a conference room with three Supreme Court judges, the head of their Environment Committee and the number two person at their EPA. And they've asked me to give them a seminar on how to write the law that will be effective. And I asked them. "Why me?" And they said, "Well, we've looked around and you're the only person who's done this on two continents, so you must know what a system would look like if it is actually going to work."

And I said, "Well, of course, I do. And there are six things you must do, but let me just say before we get going, how impressed I am and just to congratulate you on bringing in a law in China to allow citizens to sue companies owned by the state. It's revolutionary.

And this led a Supreme Court judge put up his hand and say, "Mr. Thornton..." and I thought, "Ah, crap, 10 minutes into it, and I've already been a bad visitor." And he said, "Mr. Thornton, revolutionary is a big word in Beijing." And we laughed. Of course, the revolution is Mao's revolution. It's a big word. So he said, "...but you're right. It's a big change. Let's call it a sea change." And so I thought, "Well, I can work with these people." So we had a very good meeting and I learned before starting the seminar, an incredible amount.

And I said, "But why are you doing it?" They said, "Well, we think that if citizens are going to enforce the law, it'll speed up enforcement a lot, because there are corrupt officials in the far-flung provinces who are being bought off by companies, including state-owned companies. And in Beijing, it's hard to do anything about that. But if we have local people allowed to bring cases..."

So one of the things that came out of my recommendations was that we can do that, but the local citizens could bring cases in Beijing, not in the provinces, so they wouldn't get whacked. So these things are very important to look at...

McNally:

Judge shopping...

Thornton:

In a very useful way, and it's working, it works.

So anyway, I said, "So why are you doing this big change? So I get that citizens are affected, but what's really the thought behind all of this?" And they said, "It's really simple. Our air is polluted, our water is polluted, our soil is polluted, our food is polluted. We're really aware of this. Citizens in China are totally on top of this and really upset about it. So we need to do something about it and we need to be seen to be doing something about it or harmony may break down."

And what that meant for them, I learned later, was, it's a centralized, always been a centralized culture, and when harmony breaks down, it's some form of chaos and revolution and millions die. And what they said is, "On our watch, we must do the following. We look back 2000 years and we look forward 2000 years. And it's our job today to take all the steps necessary so that people here are healthy in 2000 years - good air, good water, good food, good economy - that's our job. And I thought, "Wow, first of all, am I called in to talk to the Supreme Court in London or Paris or, God help us, Washington? No.

But this 2000-year planning horizon - and they're very sincere about it. They really mean it. And they said, "The environmental problems come from the fact that our intention was to bring up the largest number of people out of poverty in history, and that we had over 500 million people in dire poverty, and we succeeded over the course of the last 40 years. But we destroyed the environment while doing it, and it was purely out of ignorance. Now our chief priority is to the environment.

So we wrote the law. I went back three months later to see how they were doing, and I had sent them a bunch of recommendations. And then I'm meeting with the judges in the Supreme Court building and they say, "Before we get going, we want to tell you that we loved everything you sent us, and we wrote it directly into the Chinese law." Amazing. I put my hand on my heart and I said, "Your honor, not every meeting starts like this for me." And then we had a laugh again. We started with a good laugh and they have a wonderful sense of humor. It's wonderful. It's human connection. Very easy, direct human connection.

McNally:

A quick stupid question.

Thornton:

Yeah.

McNally:

How are you guys dealing with language?

Thornton:

In that meeting? And in the prior meeting that I described, we had simultaneous...

McNally:

...because humor is tough.

Thornton:

Humor is tough, but we had simultaneous translators. But even so humor is tough, but we gave space.

McNally:

Thank you. I just wanted to be able to sort of picture it and see what...

Thornton:

No, you're right. And it requires - in such a situation through translators - it requires both parties to be open and wanting to connect. And you can do it. And you're right to point it out because then I thought, "Wow, these guys are open and want to connect."

So then, after saying, "We used your work," he said, "Now what do you want to do for China? What's next?" And I said, "Well, when I was last here, I discovered that China had just made 3000 special environment court judges, which exist nowhere else in the world pretty much. There's only a handful around the whole world. None in the United States who only hear environmental cases, almost none in Europe, some in Australia, but it's very rare.

They had made 3000 because they wanted to push, push, push, push, push and bring environmental enforcement up to the level of the first world. So I said, "Well, those judges need to be trained." And the Supreme Court judge said, "You couldn't be more right. Will you train them?"

And I was the head of a relatively small NGO, and of course I'd never trained a judge in my life. So I said, "Of course, where shall I start?" And he said, "With us." And I said, "With the Supreme Court?" And he said, "Yes." And I said, "Okay, what do you want to learn?" - and get this - So we're talking about the Chinese Supreme Court.

We only hear bad stuff. And look, there's a lot of bad stuff to say about human rights in China, and I'm not here to defend any of that, but on the environment, they have this very enlightened perspective.

So he said, "We want you to come back. You're an expert on climate litigation. Come back and give us a seminar on the best climate cases around the world." And I said, "Well, gladly, but why?" - and again, get this - He says, "Because we have decided that we want to decide some of the best climate cases in the world in China."

Thornton:

Wow. Talk about pushing the envelope.

So I did. And, of course, I brought other professors with me, and that turned into now training and setting up an office. So they told me who to hire to set up an office, who was the head of the EU China program, whom I did. And he's there running this office now of 15 people in Beijing. And we've trained - by using judges and prosecutors from around the world - 1500 Chinese judges.

And the prosecutors came to us a year later and said, "The judges love what they're getting. Would you train us, the federal prosecutors of China?" And I said, "To do what?" And they said, "Well, to sue all polluters." And I said, "This includes state actors?" And they said, "Absolutely." So here I am, and it feels again like a science fiction movie.

And so I was there a little more than a year ago, and into the office comes the head environmental prosecutor. There weren't any when we started, and then they created a whole division, and the head of it comes newly appointed to say, "Well, I'm coming to honor you and thank you for bringing environmental prosecution in the public interest to China." And at a dinner later, they said, "We really need to remark on this that bringing environmental prosecution in the public interest to China is something that will still be having impact in China in 1000 years." And my heart melted. On my tombstone - that's enough.

But then he goes on, it's never enough when you're there. I mean, it just keeps going and going because they're pushing harder on the environment than anyone in the world. So he says, "Okay" - now back in the office, "...Look, here's what we've done since your team started working with us, training us. We've been bringing these cases and we're disappointed in the number of cases we've brought. But here's what we've done. We have successfully completed only 400,000 environmental cleanup cases, 400,000. I mean in the history of the United States, have there ever been 400,000 environmental cases brought? I'm certain the answer is no. Or in the EU..

McNally:

...and just so people... This is in how many years? This is in a very short time.

Thornton:

Well, that's like four years.

McNally:

Yeah. Okay.

Thornton:

Yeah. So it's like a hundred thousand cases a year. And they do cases like we do. So you find the polluter and you put the file together and the prosecutor then contacts the polluter and says, "This could go two different ways. You can either agree to do everything we want to clean up and we write it in an order, and it goes to the judge and it's enforced by the judge, or you can fight and then we'll take you to court and we'll win. And it's going to be much, much worse for you if you force us to take you to court."

So they settle almost all the cases. But what that means is that they can do this high volume of cases and American prosecutors would do exactly the same thing, or that's what I did, exactly the same thing.

McNally:

Right, right. When you said bringing the ability of citizens to sue even state-owned companies, sue the government and so on, it strikes me that they're not just talking about on the environment. In other words, my guess is that because they felt that need to improve environment and reached out to you, that it actually changes the way law functions in China on other issues as well. Am I right?

Thornton:

Maybe not yet.

McNally:

okay,

Thornton:

...but you've made a very powerful point.

McNally:

It's the camel with its nose under the tent.

Thornton:

Certainly there are many who hope this will be the case, but like I was saying about human rights before, and I've had discussions with them, and, look, they have a very different view from the Western view of human rights, and we're not going to persuade them anytime soon. But on the environment, they're ahead of us in the West.

So this was restricted to environmental cases, and they see them as completely different universes of activity. And that's okay from the point of view of getting the environmental work done. From a different perspective, one could hope for different things, as you're pointing out. But boy, they go after it with the environment. And then the fact that prosecutors took it up so fast and hard, amazing.

So when I was there most recently... a wonderful example of something they're doing - the prosecutor said, "So we are doing all these cases, do you have a suggestion of something in addition that we could be doing to help nature protection or whatever it is you're thinking of?"

And indeed, the team had been working with an ornithologist at the Hank Paulson Foundation in China, a European ornithologist who lives there, a biologist. "Look," he had told us, "Here's a big problem. The Chinese - and not just the Chinese - make these, super fine nets called mist nets, and scientists use them to trap birds, to tag the birds, and then you can find out where they're migrating and all the rest of it

McNally:

Once you tag them. Yeah.

Thornton:

And then you catch them and tag them again. But the problem is people using these illegally to catch vast numbers of birds that are either sold in a pet trade or eaten, and it's decimating the migratory bird populations. China has one of the great migration routes for Asian birds from Siberia all the way down to Indonesia and so on. So great harm to populations.

And then Chinese workers take these nets illegally to Africa when they work there and trap tropical birds. And so it's doing untold harm. So this wonderful young lawyer in the Beijing office figures it out and talks to him, figures it out and says, "Oh look, Chinese law already says that it's illegal to use them unless you have a license to do scientific research, you can't kill birds with them. It's already forbidden by the laws. Law is on the books, but no one's aware of it and it's not enforced."

So that day when I'm there, they say, "Do you have any ideas?" This brilliant young lawyer says, "Oh yeah, you could make an unbelievable difference if you enforce this law and I'll have a memo to you tomorrow." So the prosecutors look at it all and they say, "Wow, huge problem for biodiversity, clear law. This is something we can work on." And they are working on it.

And recently the head of Bird Life International, which is a global organization based in Europe, said to my successor as the CEO of ClientEarth, he said, "This effort by the Chinese prosecutors is probably the single most important bird protection effort that has ever happened. Because if successful, it will save millions of birds a year."

So here's again this beautiful thing of following the heart, making the connections, being there, listening in their relationship, building a relationship of trust in which the prosecutors would actually say, do you have a recommendation in meantime, a relationship of trust build with this ornithologist who thought we were worth paying attention to and giving an idea to? And then it all comes together in this beautiful synthesis so that you have this independent observer who is one of the top bird experts, the head of Bird Life International, praising this prosecutor's effort as one of the top ones for saving birds ever. And it is such a wonderful thing to be able to be in the confluence of these kind of events.

So you don't ever feel like I'm doing this. It's like I'm part of this cool thing happening, and if I just open my eyes and ears and heart and get in there, something good will emerge. And that's what keeps happening.

McNally:

Wow. Okay. I think we've covered a great deal, the personal inspiration, the personal path, and then we kind of went quickly through Europe because, for me, the Chinese stuff is so remarkable, we don't have time to go into other things that might've come up. And as I said before, I would love maybe to schedule something soon in which we talk more about *Nature, My Teacher* and the relationship of all of us to nature.

One thing I will just tell you is, I'm interviewing Paul Hawkin later this week. Okay. I'm sure Paul, in his work and His new book is called *Carbon* and it's to take carbon from being the villain, which it can be when we abuse it, but to being the source of life. And I said to Paul, let me just tell you how I'm approaching this. I do not consider myself an environmental person. I do not consider my work when I'm doing these sorts of conversations about the environment. My goal is that we have a healthy relationship with the rest of nature.

Thornton:

Absolutely.

McNally:

We are nature, and the goal is not to fix or limit our damage. The goal is a healthy relationship with the rest of this context of which we are one manifestation.

Thornton:

Absolutely. You said it. You got it, Terence.

So yes, happy to talk about such things. And then I'm moving into a professorship at Oxford, which is a wonderful next platform for my work. And we maybe can talk about a further subject, which is, I'm dreaming of a project 2050 in which we all outline together how we would come to this healthy relationship with the rest of the world and with each other.

Project 2025 - the chapters are opening every day in the newspaper and are pretty baleful. But let's imagine a project 2050 in which we create a world for everybody.

McNally:

And when I'm dealing with people who are dealing with big ideas and big projects and so on, one of my questions is: If you could stand in the future, 10, 15, 20 years from now, and look back, did we turn things around? If you answer no, that's sad. If you answer yes, how did we do it? Not what do we do tomorrow, but when you look back from the future, what was that amazing thing that happened in 2028? And what was that thing? What were the... so it brings the imagination into the conversation. And it sounds like that's very much in sync with Project 2050.

Thornton:

Well, it surely is. And when we get to that, we'll talk more about China because China has this vision. I came up with the same language and the same concept on my own lonely in my studio in 2008. And I got there and found that they had this vision, which is real, and they're implementing it. And everything we've been talking about is part of that. But the big vision that they have for us, existing well with each other and the rest of nature is called ecological civilization and they mean it.

McNally:

I listened to a conversation you had specifically on ecological civilization. Yeah.

Thornton:

That's my next big push is to understand how that could be taken on not only in China, to study it with the Chinese scholars who are working on it. And I've already been on an expert panel to rewrite law in China for ecological civilization, but I want to more deeply understand what they're inventing in their excellent, very open-minded way.

And then how it could be useful in the West not to do exactly the same thing, but to bring in... as I took the concepts of environmental law from America to different culture in Europe, different culture in China. What I'm interested in doing is seeing what's emerging there as powerful new concepts for exactly what the transition is, and should be to where we live well with all the other creatures, and see what they're doing. And then to what degree can that help us do it faster in the

McNally:

...West?

Thornton:

Yeah.

McNally:

Wow...Okay. So again, the organization is Client Earth. The website is clientearth.org. James and Martin Goodman wrote a book called Client Earth, and the newest book, as I said, is *Nature, My Teacher*, which goes into some of the deeper upstream sources of what we're talking about.

And for this conversation, many other interviews and articles, to join me in pursuit of a world that just might work, go to terrencemcnally.net or aworldthatjustmightwork.com. They're the same website. If you want to get my weekly email announcement telling you who's going to be on, what we're going to talk about, and usually links to 10 or 15 articles to flesh out the conversation, email me at temcnally@mac.com. You can also sign up at my site.

You can subscribe and listen to the Free Forum podcast at my site or any of those podcast sites. And most of them have 400, 500 of these interviews that go back. I don't think we have the '99 ones. I think those got lost in the ether. But going back to the early 2000s. Listen, anytime, anywhere. The archives are deep. You can follow me on Twitter @mcnallyterrence. Thanks to Kiyana Williams in production, George **Vasilopoulos** of Progressive Voices, and most of all, you my listeners, please share this podcast widely.

And finally, thank you, James Thornton, keep up your good work.

Thornton:

Thank you, Terrence, what a pleasure.

McNally:

Absolutely.