Bernie Meltzer Remembered

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Eminent labor law scholar, Nuremberg prosecutor, and Edward H. Levi Distinguished Service Professor Emeritus, Bernard Meltzer (1914-2007) approached the personal and the professional with intellectual values, creativity, and inspiration.

His contributions ran deep over many decades at the Law School and in American legal education. The Law School could not have been the same without him... nor could many who had the privilege to be his student, colleague, or friend.

When more than 450 people gathered in Chicago on February 2, to honor the memory of Professor Meltzer, his children offered these thoughts and in doing so connected each listener to this man in an intimate way.

We know that Dad would be touched by the many kind things that have been said about him. He would also have been the first to remind everyone of a favorite quote: “An obituary is not an affidavit.”

Dad loved this Law School and University, although his route to Chicago was somewhat serendipitous. As some of you know, he grew up in Philadelphia, and at his high school, the graduate with the highest average received a scholarship to the University of Pennsylvania, and the second in the class a scholarship to Temple University. Dad and a classmate were the top scholars, but Dad’s low grades in freehand drawing and chorus, both, by the way, well-deserved, gave his classmate the number one spot. So Dad was off to Temple. But when his brothers moved to Chicago for their business, he joined them and transferred to the U of C. He described his arrival here, during the Hutchins’ years, as an exhilarating and transforming experience.

We suspect some of the speakers today may have remarked about what Dad gave to the Law School, but he would have emphasized what the Law School and the University gave him over more than 70 years—a superb education, wonderful colleagues and students who became lifelong friends, and a sense of community, both intellectual and personal. And Dad was thrilled when his grandson Tom arrived as a law student in 2001.

We’d like to regale you with stories about Dad’s hobbies, but he had only a few. He loved tennis, which he played enthusiastically and well. He denied running around his backhand—and until he tripped and broke his wrist once while doing so. He passed on his love for the game to the three of us and in turn to his grandchildren, not only teaching them to get their racquets back early but having great fun hitting them shots with tricky spins, as Dad could inject fun into most any situation.

After he had hung up his racquet, he was fervent about a small plot of tomatoes in the back yard. Dad’s culinary tastes, like most of his tastes about material things, were simple. For him, a ripe tomato, especially one that he and Mom had cultivated, was a perfect food, and summertime phone conversations featured regular bulletins on the state of the crop.
But Dad’s greatest hobby was not tennis, or tomatoes; it was talking—and boy, did he love to gab! We don’t mean he was self-centered or self-important, two descriptions that seem to us far from the mark. He liked to talk because he liked ideas, he liked to learn, he liked to teach, and most of all, he liked people. He loved discussing the law and public events. He loved giving, and going to, dinner parties. He made friends and found common ground with others.

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all kinds of people—even strangers with whom he initiated conversations, sometimes to the embarrassment of his children. He usually had the perfect retort or wisecrack and it was hard to get in the last word with him, but his humor, like Dad himself, was never biting or mean-spirited.

A wonderful part of being his child was dinner, for which Dad was always home, no matter how late he might work afterwards. Dinner featured myriad entertainments. When we were younger, Dad would amuse us by spinning coins on the table. As we grew older, he would ask us about our days and our views on current events. Our dinner table became famous, or infamous, among our cousins and friends for Dad’s rigorous cross-examination. Dad wanted to know about their interests, their projects, about what made them tick. In these discussions, he was alert to any statement that was poorly reasoned, inadequately documented, or overstated. He acquired a reputation as a grand inquisitor, a kind but demanding one. He had high standards, and as his students know, he saw no reason why others shouldn’t be held to those standards. Indeed, although he would often advise that “The perfect is the enemy of the good,” he had a streak of perfectionism that made it hard for him to follow that maxim.

We said that Dad had few hobbies, but we have diverse memories touching on baseball. When we were small, he regaled us with tall tales of his days on the White Sox, where he covered a lot of ground playing shortstop on a motorcycle or center field in a helicopter—and later told his grandchildren he had quit because he was causing too much pollution. Back down on the ground, every spring, in the empty lot next to our house, he conducted spring training for us and our Levi cousins. On weekends, he would emerge from his study to watch an inning or two of the ball game on TV with us. Dad was an optimist, so if the Chicago hitter at the plate was 0 for 4, Dad would say he was overdue; if he was 4 for 4, Dad would say he was hot. We’re not sure whether it was optimism or a shrewd sense of reality that led him to promise that he would take us to the World Series if the Cubs ever played the White Sox. Unfortunately for all of us Chicago fans, he never had to figure out how he would acquire the tickets.

Dad was great fun, and if he took ideas seriously, he never took himself too seriously. He loved telling, and retelling, funny stories, always accompanied by his wonderful grin and twinkling eyes. And he could be downright silly. When this hawk of table manners was visiting Danny’s family, his grandson Jonathan broke out into song. When Jonathan was reminded by his parents of the family rule barring singing at the dinner table, Dad sprang from his seat with a grin, pranced around the kitchen table, and delivered an off-key rendition of “Singing in the Rain.” He then exclaimed, “I’m not at the table, I’m not singing at the table,” delighting Jonathan.
James C. Franczek, Jr. '71, Remembers

After my classmate, Bill Sullivan, and I started our own law firm, Bernie visited our firm often and shared everything from his experiences at Nuremberg, reflections on the footnotes in some obscure NLRB case, why Nellie Fox deserved to be in the Hall of Fame (Bernie was a charter member of the Nellie Fox Society), and generally probing whether we had learned anything while in law school—or since.

For me his receipt in June 1997 of the University's inaugural Norman Maclean Award captures the many and nuanced qualities of Bernie. The award was for extraordinary contributions to teaching and to the student experience of life within the University community. It was said then, and deserves to be remembered now, that he was a brilliant teacher who inspired many students to choose a career in labor law. He was an inexhaustible resource to numerous alumni for questions of law, career, and life. For over 40 years he was there for the likes of me and hundreds of others.

While Nellie Fox may have been a great second baseman, Bernie covered all of life's bases. He was truly a Hall of Famer.
and Josh with this exuberant example of the difference between the letter and spirit of the law.

Dad was a teacher, and few places could not be a classroom. Long before skyrocketing energy prices, his frugality and depression-era sensibilities led him to offer us a special “light-putting-out” allowance—though perhaps he should have realized that 2 cents a week might not be an adequate incentive. He improved our grammar, and instructed that one cannot debate with himself (a claim that his own behavior sometimes belied) and that things can be unique but not “very unique.” He taught us more about writing than our English teachers, one of whom gave Susan a good grade on a paper but commented that it “read like a law brief.” We weren’t sure if that was meant as a compliment, but we’re sure Dad viewed it that way.

Some of you can perhaps identify with Joel Kaplan, whose law review note had been subjected to Dad’s critical review. Some years later when Mom mentioned in passing that Dad had reviewed one of our high school papers, Joel exploded in laughter: “My God! I never thought about what it would be like to be his child!”

Dad taught us a lot, but most of what he taught came when he wasn’t trying to teach. We simply observed the example of someone who was loving and loyal and decent down to his core. He was a classic gentleman. He exemplified integrity and selflessness. He was not only gracious to others, but went out of his way to help them when he could. That was true for his extended family, whom he loved and tried to support in every possible way. It was true for students and staff members whom he knew or simply might encounter at the Law School. There were others, too, whom he helped, whether bailing them out of jail in the middle of the night or representing them in a loyalty investigation, or helping with a more mundane problem.

Dad cared about many people, but his greatest love was for our mother. Dad was a highly analytic person, expert in articulating all considerations bearing on any question. But six weeks after he met Mom, they were engaged, for this was the one case in which even he could think of no counterarguments. For 60 years they adored each other with a depth, a harmony, a mutual understanding, and a joy, that was a blessing to us and to everyone around them.

In recent years, even as various ailments set in, Dad’s mind was firing on all cylinders. He listened to books on

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tape, went to faculty workshops, consulted on cases, and maintained a social life that makes us look like wallflowers. His physical limits resulted in more time together with Mom, and these last years were among their happiest—reading together, talking together, enjoying each other’s company and love. And, nothing gave him more pleasure than his grandchildren’s visits and phone calls; just a few days before he died, Dad was happily listening to a DVD of his grandson Brian playing the drums, swaying in rhythm in his chair.

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A few months ago, Dad said that he had lived the American dream. From modest origins, he pursued and obtained a great education, found a career and an institution about which he cared deeply, shared sixty wonderful years with a spectacular wife, and had the joy of loving, and being loved by, his children, children-in-law, and grandchildren. His life was enriched by a wonderful community of colleagues and friends, many of whom are here today. And he had the good sense to be able to recognize and appreciate his own good fortune.

We’ve said a bit about baseball, about Dad’s joie de vivre, his love for the Law School community, and the high standards he set for himself. They all came together one Saturday in the 1980s, when Dad was in his 70s, and wandered over to watch the annual student-faculty softball game. When a student urged him to take a turn at bat, Dad removed his coat, loosened his tie, and came up to the plate. He whiffed on the first pitch, and later wondered how he could have missed that large and slow target. But he hit the second pitch cleanly over the infield, and as he rounded first, Dad, always alert, thought the center fielder was a bit slow in coming up with the ball, so he decided he’d try to take two. As he approached second base, the throw was on its way, the play looked to be close—and so he slid. Happily, no bones were broken; even his trousers were intact.

Whenever Dad told that story, he always ended by saying that the next day at the Law School, he received more accolades than he would have had he won the Nobel Prize. Although he was always modest about his accomplishments, in closing we think there is one more fact you should know about Dad.

He was safe at second.

James Whitehead, ’74, Remembers

A generation of employment and labor lawyers owes its inspiration to Bernie Meltzer, the master of the Socratic method. Each of us has memories of being called on to respond to one of Bernie’s serpentine hypotheticals (or watching, with sheepish relief, as a classmate struggled to navigate Bernie’s questions). Looking back on Bernie’s classes in Labor Law and Evidence, I vividly recall two of his maxims that capture much of the wisdom that he imparted.

The first Bernie would use when a student was having a difficult time responding in any meaningful way to a question. “Life is hard!” he would exclaim, drawing out “hard” for at least three extra beats. This was always done with an evident twinkle in his eyes, reflecting both an absence of malice and the pure joy he felt leading the uninitiated through the labyrinth of a difficult subject. I think he meant to convey that the effort required to truly understand the law was a substantial one. But the rewards of thinking about the law in an intellectually rigorous fashion, as with life itself, were great indeed.

The second maxim I remember (and use without, I confess, adequate attribution) Bernie would utter at the conclusion of a particularly challenging class, when the assembled multitude had been reduced to total confusion. “Life,” he would say, “is a seamless web!” I wish I had asked Bernie what he meant by this. What he may have sought to convey was that the law, like life itself, consists of complex, wondrous relationships, and that our craft as professionals and as human beings is to plumb those mysteries—always with a playful twinkle in our eyes.
Eugene Scalia, ’90, Remembers

I first heard of Bernie Meltzer when I was a student at the Lab School. My father was on the Law School faculty and would mention him with affection and respect. I was impressed that an academic—and friend of my parents—could have the energy, insight, and warm personal touch to host a successful radio call-in show.

By the time I arrived at the Law School I knew it was the other Bernard Meltzer who had the radio show. But my first impression proved otherwise accurate. Though no longer teaching, Bernie was as interested in the students and life of the Law School as any professor. My last year he submitted an article that was published the following year and was one of the most significant my colleagues and I were to see as law review editors. “Hard Times For Unions, Another Look at the Significance of Employer Illegalities,” 58 University of Chicago Law Review 953 (1991) is being cited today in the debate over the bill passed by the House in March to strengthen unions in organizing and negotiations.

Bernie Meltzer was a leader in a generation of labor lawyers who were leaders—Archibald Cox, Derek Bok, William French Smith. He was at the heart of a group that defined how we regard the Law School. He embodied a dedication to legal rigor, and to the School’s students, that we hope will be timeless.

Alan Littmann ’03, Remembers

It was 7 a.m. and I was expecting to have the law library to myself. Yet, as I trudged up my third flight of stairs, I heard someone call out, “What’s wrong, out of breath already?” Professor Meltzer, aged 88, was already two floors ahead of me, and showed no signs of slowing on the way to his office on the sixth floor. What became clear as Professor Meltzer teased me that day was that he was a legend at the Law School not only because he demanded the most from himself, but also because he set the pace for others throughout his life.

The University of Chicago Law Review will print a tribute to Bernard Meltzer in an issue later this year including pieces by Douglas Baird, Richard Epstein, Robert Helman, Saul Levmore, Catherine Masters, Martha Nussbaum, Richard Posner, Geoffrey Stone, and Cass Sunstein. To obtain a copy of this volume, please contact Dawn Matthews at (773) 702-9593 or dawn_matthews@law.uchicago.edu.
Nancy Lieberman, ’79, Remembers

As a third year student, in a seminar with Bernie, I was asked to prepare the class’s first paper on the topic of affirmative action, which meant working over my Christmas break. I handed the paper in and then was called into Bernie’s office. Thinking I would be lauded by Professor Meltzer—given my hard work over Christmas—I was shocked to be told it was an “A” in concept, but a “D” in grammar and style. It was a stark assessment designed to grab my attention and it succeeded.

He explained that my writing was probably acceptable when compared against the general population—but clearly not at the level he thought I was capable of achieving. He directed me across the Midway to a writing program run by English graduate students and I was given the grammar lessons I never received in the New York public school system. I rewrote every brief, memo, and paper produced in my law school career. Several rewritten papers were submitted along with my application for a Fifth Circuit U.S. Court of Appeals clerkship. Upon offering me the clerkship, Judge Henry A. Politz complimented me on my writing skills! Clearly, Bernie (along with other Chicago professors) had a major hand in helping me secure that clerkship.

More significantly, Bernie Meltzer impressed upon me the lesson that “acceptable” is never good enough when you are capable of exceeding expectations. As Bernie said, “Life is hard” and it’s better to take some knocks and learn to deal with the “real world” rather than an idealized version where everyone pats you on the back—a valuable insight to learn as I launched my career and invaluable ever since.