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Tribute to Bernard Meltzer

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Phil C. Neal†

My first exposure to Bernie was at a Law School Association meeting in Philadelphia just after Christmas in 1961. There had been talk of my moving from Stanford to Chicago—a daunting prospect, especially in midwinter—and my introduction to a few of the Chicago faculty was at a reception at the Philadelphia art museum. My chief recollection of that occasion is how completely captivated I was by Jean and Bernie Meltzer. I promptly formed the conviction that if Bernie was representative of the law faculty at the University of Chicago it was the place I wanted to be.

My next experience with Bernie came a few months later, when Mary and I came to Chicago to find a house. Jean and Kate Levi already had a house to propose, which we immediately decided to take. At that point Bernie took over. He became both the negotiator and the conveyancer, and that was all we had to do about it. Talk about the now-faded ideal of the all-around lawyer—Bernie was it, in spades.

A year later I had been in residence for only a short time when Edward Levi was called to higher office in the University, and not long thereafter I found myself chairman of a committee to find his successor. The only reward of that assignment, but a great one, was that Bernie and I took a barnstorming trip together around Eastern universities, looking for the right person. Our effort wasn't ultimately successful, but the experience brought me closer to Bernie and deepened my appreciation for his judgment and personal skills.

I had a similar experience with Bernie several years later when the local office of the EEOC issued a charge against the Law School. The faculty believed the charge was unjust, and Bernie went with me to Washington to discuss the matter with the agency's General Counsel. Thanks in no small part to Bernie's skillful advocacy, the General Counsel agreed that the charge should be dropped.

Looking back, it is clear to me that I leaned on Bernie many times. He unfailingly came through with a keen appreciation of the problem and with helpful insights, although he never tried to impose his own views. (Needless to say, that distinguished him from most of our colleagues.)

I've often thought that some of Bernie's leading traits as an advocate were epitomized in the traffic court incident that has been de-

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scribed. It reflected his respect for the law's institutions—even one of its less edifying examples—as well as his instinct for the right approach. But above all it exemplified his always impeccable demeanor.

A major clue to Bernie's genius as a teacher and scholar is the fact that his academic work was infused by his rich experience in the outside world. As others have noted, despite his sixty years here, he had crammed into his early career an immensely varied set of responsibilities, and he continued to take on selected outside assignments throughout his career. His grasp of the real world was nowhere better shown than in his influential pieces on the labor arbitration process, inspired by what he viewed as a wrong-headed indictment that had been issued by a prominent judicial commentator on labor law.

Other academic lawyers have brought outside experience into their work, of course, but I doubt that many have done so as instinctively and pervasively as Bernie—not as a teller of war stories, although he had stories to tell, but simply because that was how he thought about the abstractions of the law and the issues they deal with.

Of course one cannot think of Bernie without thinking of his wit, and how he often used it in the service of some serious message. I think of the time we had an eminent federal judge visit the school for some event and in the evening Mary and I had a dinner party for him. Jean and Bernie were among the guests, as well as some of the younger generation from our two families. The company lingered after the judge had left, and almost immediately Danny observed to the group, in his best impertinent fashion, "Why does he always talk as if he's senile?" Without a second's pause Bernie answered, "He was just trying to bridge the generation gap."

Finally, one must comment on the strong devotion Bernie inspired in all who came to know him well. I remember visiting Justice Frankfurter in his home after his retirement from the Supreme Court. The Justice had had a stroke, and it was an effort for him to talk, but one of the things he wanted to talk about was Bernie, and so we did. It had been almost thirty years since the Justice had spent any substantial time with Bernie, but it was evident that his deep affection for Bernie had not dimmed. As I took my leave, the Justice's last words to me—literally the last words I ever heard him speak—were, "Take care of Bernie."

I think if he were here now he would probably want to say, as I say, "Take care of Bernie's spirit." I know that Bernie's spirit will always be a presence in my life.