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In Memoriam: Bernard D. Meltzer (1914-2007)

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Douglas G. Baird†

Bernard Meltzer was a giant long before anyone in my generation went to law school. He so dominated the academic debate about labor law that you just couldn't talk about *it* without talking about *him*. He epitomized all that is distinctive about our vocation. You read his work and you saw how to confront the tough questions and the hard choices.

Even for those of us who did not have the good fortune to study law here, Meltzer was the stuff of legend. But one part of the legend made you nervous—at least if you were just about to become a very young assistant professor at the Law School. By the standard account, merely going to a faculty lunch at Chicago was an ordeal by fire. As one person put it, Meltzer would expose in you “the too theoretical, the insufficiently theoretical, the unprincipled, the thoughtless, the less than meticulous, the doctrinaire, the fashionable, the bureaucratic, and the heartless.” He was the master of cross examination. Others put it less delicately: “Hamburgers are not the only thing grilled at the Quad Club.”

Fortunately, what you discovered when you arrived here was different. You were, of course, naturally awed by the sheer brilliance of his mind, his laser-like ability to find the smallest cracks in any line of analysis, but there was another side too. It wasn't *Bernard Meltzer*, but rather *Bernie*, a mentor who gently (and sometimes not so gently) helped you find your way. Whatever you thought you knew before you got here, your legal education began only once you did.

Bernie cared as much about your work as his own. He helped you understand *your* ideas; he was the person who pressed you before, during, and after every workshop you gave. Not that you could ever completely satisfy him. He did not like it when you acknowledged his help in the first footnote, as is the academic custom. It was not false modesty. He worried that people who saw that he had helped would think either that he had not noticed the flaws or, worse yet, had failed as an advocate to persuade you of the error of your ways.

Most of all, Bernie made you feel like a colleague, even if you were only twenty-six and really had no idea what you were doing. The Law School has long been a special place where complete strangers come from afar and find a home. For generations of us, our first few

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months at the Law School began with a succession of dinners with those whose commitment to the place equaled their passion for the law: Walter and Natalie Blum, Phil and Mary Jane Kurland, Edward and Kate Levi, and, of course, Bernie and Jean Meltzer.

Dinner at the Meltzers is a tradition that spans the decades. Whether it was 1981 or 2006, those evenings had a magical quality for colleagues and students alike. Jean was the impeccable host and Bernie was the master raconteur who could explain the finest point with humor and a sparkle in his eye.

Last spring Bernie and Jean were entertaining a group of students and the conversation somehow shifted to a nuance in the law of evidence. A judge is required to distinguish between his personal knowledge and his knowledge based on the evidence. To illustrate, Bernie drew from his own experience. There was a hearing he was conducting as a special master. Jean was curious and came to watch. The issue was whether a group of Teamsters, all of whom were gathered in the hearing room, had engaged in violence and coercive threats.

When the first witness was called, Bernie granted a motion to sequester other potential witnesses. Everyone lumbered out except the witness on the stand and Jean. Opposing counsel then asked, rather gruffly, who *she* was and why *she* was there. Bernie, ever attuned to such things, understood that *in his capacity as a special master* he did not know who this woman was. So he looked toward his wife and without dropping a beat asked, “Madam, could you please stand and identify yourself?”

Especially here and especially now, we should also remember how much *our* Law School is *Bernie’s* law school. An architect of Lend-Lease, a protégé of Dean Acheson, a wartime member of OSS (the predecessor of the CIA), and a prosecutor at Nuremberg, Bernie brought experiences sufficient to fill several lifetimes when he joined the faculty in the fall of 1946.

The fall of 1946. This school has had many splendid moments—and we can be confident it will have many more—but among the most splendid must have been then. Walter Blum, Harry Kalven, Edward Levi, and Bernard Meltzer came together to teach law and the sparks flew.

Everything that is great about the Law School today can be traced to the tireless energy and vision each brought to the school that autumn. Walter was the born senior partner who immediately leapt to the heart of the matter, Harry was the idealist and passionate advocate, Edward possessed a great, overarching vision of the Law, and Bernie was the lawyer’s lawyer.

From evidence to labor law, Bernie brought rigor and structure and insight to fields that sorely needed them. From Nuremberg to Rwanda, from the 1940s to 9/11 and beyond, his understanding of war crimes

and all the difficulties associated with them made him the clearheaded and unflinching voice of reason. Bernie was also the counselor without parallel. Over the decades, Bernie was the person at the Law School the Dean called late on Sunday nights when he was in real trouble.

Like all great counselors, Bernie was the soul of discretion, and he carried it off with great style and aplomb. When he was doing baseball arbitration, and we pressed very hard for details, Bernie replied simply that, for the first time in his professional life, he was allowed to state only his conclusion and had to skip the reasons. His lifelong ambition to be in the Major Leagues had been fulfilled: He had become an umpire.

Bernie showed us how to live well in the law. He worked at the Law School every day for sixty years. Last year, one of us caught him by the elevator with a coat on at 3:00 PM and asked if he was now keeping banker's hours. He smiled as he stepped onto the elevator, turned around, and said with the characteristic twinkle in his eye, "Oh no. It's just a change of venue."

Bernie is much missed, but then again we must also remember that, as long as the Law School is still here and maintains its values and traditions, then Bernie—like Walter, Harry, and Edward—will be here as well.