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

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Geoffrey R. Stone†

Few current students at the University of Chicago Law School knew Bernie Meltzer, although they pass his portrait every day on their way to class and often passed him in the hall. They would have seen him as a little man, slightly stooped, with large glasses. If they happened to ride with him in the elevator, he undoubtedly asked them a question. Bernie was like that.

Bernie Meltzer was one of the giants of the University of Chicago Law School. Along with his close friends and colleagues Edward Levi, Harry Kalven, and Walter Blum, he was one of four towering figures who redefined and reconstituted the University of Chicago Law School after World War II.

Edward, Harry, Wally, and Bernie were products of the University of Chicago. All four attended both the College and the Law School. (Levi, Kalven, and Blum also grew up in Hyde Park and graduated from the University of Chicago Laboratory Schools. Meltzer, a late bloomer, grew up in Philadelphia and didn't make it to the University until College.)

Levi graduated from the Law School in 1935, Meltzer in 1937, Kalven in 1938, Blum in 1941. Each was a virtuoso student, a Law School legend while still taking exams. After serving their country (Meltzer was a prosecutor at Nuremburg), Levi and Kalven joined the faculty in 1945, Blum and Meltzer in 1946. They quickly became the intellectual core and the heart and soul of the University of Chicago Law School. Their lives were intertwined in innumerable ways. Blum and Kalven were coauthors; Levi and Meltzer were brothers-in-law.¹

When I arrived at the Law School as a first-year student in 1968, Levi had just been named President of the University. Meltzer, Kalven, and Blum were at the center of everything in the Law School. Then in their mid-fifties, they had become dominant figures in their respective fields. Blum was a national leader in tax law, Meltzer in labor law and evidence, Kalven in torts and the First Amendment. They were great teachers as well as great scholars, and they were thor-

† Harry Kalven, Jr. Distinguished Service Professor of Law, The University of Chicago. Student of Bernard D. Meltzer (1970–1971, 1973–2006).

¹ I would be remiss if I failed to note that Jean Meltzer, Kate Levi, Betty Kalven, and Natalie Blum were the “first ladies” of the Law School for a generation. Like every young member of the faculty, I was welcomed into their homes and into their families, and they played a central role in creating and nurturing the very special community that is the University of Chicago Law School.

oughly devoted to the Law School, its students, and its alumni. They were constantly accessible, incessantly curious, and forever young.

The four of them brought a distinctive intellectual style to the Law School. Although each had his own peculiar quirks and traits of personality, they were all questioners. They questioned everything. In class and out, on every subject, in every conversation, they asked, probed, interrogated, and wondered. If you have found that our Law School is sometimes obsessive about asking questions, that is an essential part of the legacy of Bernie, Wally, Harry, and Edward. You are who they were because of the power of their minds and the gift of their example.

They were lawyers by training and intellectual inclination. Although each was extraordinarily well read and deeply interested in interdisciplinarity (they were among the leaders of the national movement to bring such disciplines as economics, sociology, and philosophy into legal analysis), they were first and foremost lawyers. They brought both to the classroom and to their scholarship a fascination with the law, both in principle and in practice. They were unalterably committed above and beyond all else to legal discourse and to the rule of law.

As a student, I had Bernie for Evidence. It was one of the truly memorable educational experiences of my life. Bernie was a brilliant teacher. His favorite expression was "Sup-pose. . . ." The "o" was always drawn out a very, very long time. Whether this was to enable Bernie to frame his question perfectly or to leave the student hanging miserably in suspense, was a mystery I never solved. But in the duration of that "o" many a student (present company included) experienced the dread of anticipation.

Bernie could be sly, elusive, crafty, nit-picky, and pedantic. He was masterful. The distinctions he drew among the various applications of the hearsay rule were always subtle and utterly confounding. They often left me gasping in wonder. When I later joined the faculty, the first upper-division course I taught was Evidence. Even though I'd never seen a trial or even the inside of a trial courtroom, I felt well prepared and passionate about the subject. I have taught Evidence more than twenty times now, and I never fail to hear Bernie's voice in my questions and comments in class.

During the years I served as Dean of the Law School (1987-1993), Bernie was a constant source of advice, guidance, encouragement, and ever-so-gentle chiding. His concern for our students, curriculum, teaching, and intellectual standards was unsurpassed. Of course, Bernie could be maddeningly legalistic. He could dance on the head of a pin while juggling the angels. When he warmed to an argument, his eyes twinkled behind his glasses, and no point was too fine, no distinction too subtle, to skewer an adversary. Bernie was feisty and

he was merciless. He could slice and dice and shred even the best of us. But at heart he was a sweetie, and everyone knew it.

Bernie was an inspiration to generations of University of Chicago law students. He, Edward, Harry, and Wally were remarkable figures. Products of the Depression, of the University of Chicago, and of World War II, they shaped not only the Law School, but the law. It is fitting that their portraits should hang side-by-side in the Classroom wing, that each has a named professorship at the University in his honor, and that each lived—and died—within a stone’s throw of the Law School they so loved.