

Tributes

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Some Memories of Arthur Miller

In 1961, after he graduated from Harvard Law School and had served a few years in a large law firm, Arthur Miller became Associate Director of Columbia Law School's International Procedure Project. He quickly became a leading force for integrating American civil procedure rules with the practice of foreign states—a matter of rapidly increasing importance in today's world economy.

He was a charming colleague. Memorable was a trip together on Project business to lower California.

We drew up our plan for the excursion in my office at the law school. We would travel together by plane to San Francisco, working on the Project all the way. On landing, we would rent a Cadillac convertible, and, top down in the California sunshine, would tool our way to the conference, stopping along the way at roadside stands to purchase huge, red, luscious, freshly picked strawberries to be savored on the way to our motel. There we would stop for a swim in an Olympic-size pool, drying off on chaise lounges under the hot sun.

The trip departed somewhat from its design. On the plane, between long naps, we touched only lightly, in a desultory way, on the subject of procedure. At the airport there were no Cadillacs or convertibles for rent, so we took what was available—a hardtop clunker. If there were strawberries for sale at any roadside stand in California, we could not find them. And the motel had a tiny pool filled with screaming kiddies; but, anyway, the haze and a chill made

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swimming unattractive. So we went right to the conference—which was intellectually stimulating and successful.

To keep him occupied at Columbia, Arthur was assigned one of the large first-year sections in Civil Procedure. He was fully over-prepared. Hyperactive on the podium, bursting with information, insights, cross-references, and touched with a thespian genius, he kept his audience transfixed, learning about the intricacies of this fascinating subject with great excitement. From the first, he was an outstandingly popular and effective teacher.

Generously, he simultaneously solved a major problem for me. In connection with my work as Reporter revising New York Civil Procedure, my two chief aides, Dan Distler and Hal Korn, and I had engaged to write a multivolume treatise and a handbook on the new New York Civil Practice Law and Rules (CPLR).

Dan Distler tragically died suddenly. Arthur stepped in to do Dan's share.

The publications were essential, I thought, to provide quickly New York courts and the bar with a roadmap to a door-opening, simplified practice that looked forward towards integration with the Federal Rules rather than backward to the narrow law of the past, made particularly burdensome by the right to appeal most interlocutory rulings to the Appellate Division.

Although Arthur had not participated in the years of research, conferences, hearings, and negotiations that led to final approval of the CPLR, he quickly gained mastery of the subject. Our collaboration was always congenial except for Arthur's complaint that he had to use up several boxes of pencils correcting my footnote citation forms, which failed to precisely track *The Bluebook*.

The WKM CPLR publications were just a warm-up for Arthur's collaboration with Charles Alan Wright and others on their marvelous treatise on federal practice, which all federal judges and serious practitioners keep at their elbow. And his civil procedure casebook remains a standard in law schools across the country.

Columbia made a major blunder in allowing Arthur to move to Harvard. There he soon became justly famous for seminal work in procedure, privacy, copyright, computers, data banks, and intellectual law.

In his roles as an interlocutor on Fred Friendly's PBS constitutional law programs, and as a commentator on ABC's *Good Morning America* and other television shows, Arthur successfully explained to laypersons how the law worked and how complex are some of our

current legal, sociological, political, economic, and constitutional problems. Like millions of others, my wife and I were mesmerized by his roundtable TV appearances where he confounded his viewers by exposing the thinking (or its lack) of some of the nation's leaders on serious constitutional and social issues with his sharp wit and trenchant hypotheticals.

Apparently his Harvard students' attention sometimes lapsed, for Arthur resorted to somewhat unorthodox techniques to focus them, such as cross-dressing and portraying Sylvester Stallone, John Travolta, and the evil genius Darth Vader.

Ultimately, this sophisticated patron of the arts came back to New York to join the faculty at NYU School of Law (another grave mistake of omission by Columbia), where there was apparently less need for such hijinks. One of my law clerks who studied mass torts under Arthur described her experience as follows: "I had the pleasure of being in Professor Miller's Complex Litigation class at NYU School of Law, which he co-taught with Professor Samuel Issacharoff. Professor Miller was an engaging and engaged teacher. He used, but did not abuse, the Socratic method to help us think critically about a challenging and dynamic area of the law. His expertise was only outmatched by his storytelling skill. I will never forget the image of him drafting Rule 23 on a typewriter in the back of a car in the hold of a ferry bound for Martha's Vineyard."

Others will expound on Arthur's many achievements. To me, he remains that dear, charming friend and blithe spirit who taught me much about the joys of life, of scholarship, and of teaching, and who remains to this day an exemplar of the best that academia offers.

