

*Catherine M. Masters*<sup>†</sup>

Last summer I found a greeting card with a sweet old photograph of a mother and child, with this quotation as the caption: “The things that count most in life usually cannot be counted.” The author of the quotation was Bernard Meltzer. It wasn’t “our” Bernie Meltzer, though! It was his contemporary, a radio host of an advice call-in show in Philadelphia whose little proverbs are very quotable, as a visit to Google will show. But the card was so sweet that I bought it and sent it to “our” Bernie Meltzer, suggesting that we were overdue for lunch.

Bernie Meltzer was my teacher and friend. I graduated from the Law School in 1982, so I was in the last generation of his Law School students. (That was so long ago that in my class’s Third Year Show, Cass Sunstein and Douglas Baird were played by the little children of one of my classmates!) In law school I knew Bernie as my labor law teacher and as an advisor to the Law Review. He was a wonderful and demanding teacher. But I learned far more from him in the next twenty-five years.

In the early years after I left law school, I attended several dinner parties at the Meltzers’ home, when maybe a dozen people would gather for an evening of conversation. Later, my law partner Barry Alberts, who had also been one of Bernie’s law students, began teaching at the Law School as an adjunct professor, and Barry and Bernie and I began having lunch every few months. And when my oldest son, Isaac, was in high school, he was interested in politics and history, and liked talking with adults, so I suggested that he would like to meet Bernie; and that suggestion led to a series of lunches with Bernie and Isaac and me.

All of these occasions were remarkable. In part, they were fun because Bernie was a great storyteller. I think my favorite was a story about his trip to traffic court. As he told it, he was driving in Hyde Park at a time when street construction was underway. He came to a red light, but the cross street was under construction and closed to traffic, and since the traffic light wasn’t serving any purpose, he drove right through. But a traffic cop followed the letter rather than the spirit of the law and ticketed him. Fired up with heady jurisprudential arguments about the failure of the fundamental purpose of the traffic law, he decided to fight the ticket. When the court date came and he

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was waiting for court to begin, he struck up a conversation with one of the others who was there waiting for his hearing, a kid of about 18, and they compared notes about their cases. Bernie's case was called first, and he approached the bench, ready for battle, and began, "May it please the Court," whereupon the judge said, "Case dismissed!" As Bernie turned to leave, the kid asked him, "How did you *do* that?!"

I think the best part about this story was Bernie's conversation with the kid. It is so characteristic that he would engage whomever he encountered, bringing all of his formidable experience without flaunting it, and acting with empathy and humanity. At the dinner parties at his house, he would draw each person into the conversation, moderating the discussion but not dominating it. His experience was so rich and deep—at the SEC, the State Department, the OSS, the Nuremberg Tribunal, in academic life, even in the practice of law—that he could have made himself a riveting focus of the conversations. But he didn't. When Bernie was about to retire from law school teaching, my then-husband asked him what he would do in retirement. He answered that maybe he would read Proust. I don't know whether he did read Proust, but I do know that he did not spend his time just remembering things past. In all those lunches, the conversation never lagged, and never drifted into the trivial. We discussed issues of politics and law, public affairs and human affairs. To spend a little time with Bernie was a tonic.

Even as he became physically frail, he remained informed, insightful, and funny. His failing eyesight was not a topic of conversation except incidentally—when he told about cutting the hours that he recorded for consulting at Sidley or Mayer Brown to allow for the extra time he had to spend, or when he asked for help reading a menu. And he discussed his more serious illness with me only to express empathy for someone else.

The last time I saw him was in November. He called to say that this time we had better come to his house, because he was unable to go out. Barry, Isaac, and I brought lunch to him. He was as bright, gracious, and engaging as ever, treating his use of a wheelchair matter-of-factly, and not mentioning his apparent discomfort. A young man attended him as an aide, and Bernie treated him with affection and respect. As always, we had a rich conversation.

When I think about Bernie I'm reminded of a short story by Tolstoy about a king who seeks the answers to three questions: What is the most important time for action? Who is the most important person? And what is the most important thing to do? The king's advisers give him a lot of silly and contradictory answers, but this is what he eventually learns from experience:

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*In Memoriam: Bernard D. Meltzer (1914–2007)*

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There is only one time that is important—Now! It is the most important time because it is the only time in which we have any power. The most necessary man is he with whom you are, for no man knows whether he will ever have dealings with anyone else: and the most important affair is to do him good, because for that purpose alone was man sent into this life!

This is how Bernie really was. He was always engaged in the present moment, giving those he was with his full attention and empathy.

Isaac really captured the essence. He is now a student in the College, and was the first to tell me of Bernie's death when he saw the notice posted in the Quadrangle on his way to an early class. After he read the Law School's obituary, Isaac said that Bernie was even more accomplished and important than he had realized—and how much he liked him without having known that. Isn't that the nub? It's not just a trophy case of accomplishments that made Bernie great; it was himself and his interactions with others in every moment.

In 2005, the SEC Historical Society recorded an interview with Bernie as part of an oral history project. You can go to the website and listen to his voice. But even without a recording, his voice, and the many lessons he taught, will always remain with me.