

ACKNOWLEDGMENT

ARTHUR R. MILLER

It's hard to sit through that, even if you're out there or especially if you're out there. I'm filled with all sorts of emotions, as it would be very hard for someone who has just heard these wonderful people not to be filled with emotions. But mostly, it's one of gratitude. Gratitude to the *Annual Survey* for this afternoon, my gratitude to Danielle, the wondrous leader of the *Annual Survey*, for rigging the election. And my gratitude to Dean Revesz, for not vetoing the choice. Gratitude to the speakers.

But I got to tell you, I don't recognize myself. All this talk about a red tie and a pocket square, what are they talking about? And David, when I showed up at the Harvard Law Review in '56, I didn't even own a suit. I didn't acquire a vest for years. For years! I've heard events that I never even knew occurred. Footnote to Justice Ginsburg, and needless to say the last time I saw the Justice, I was sitting at counsel table, looking up at her, scared out of my mind. When she joined the Harvard Law Review in the fall of '57 as a second year student, her wonderful husband Martin being a classmate of mine, she made an immediate impression of seriousness, and talent, and skill. But as the Articles Editor occupying the front office of the law review building, it fell to me to babysit Janey, who was then what? 16 months or 22 months? So we had to watch Janey crawling around on the floor. And I'll tell you one of the great shocks of my life was being told one day that Janey was in my class. There seems to be an undistributed middle there, somewhere, but there she was.

So there's been a lot of lying, and there's been a lot of fibbing up here, and if I didn't know better, I'd think I had just heard a bunch of Sarah Palin speeches. Now it's possible that my mother might have believed some of these things. But even there I have doubts, because you see, my mother actually wished, repeatedly wished, that I go to work for my brilliant cousin Arnold, in the toy business in Hartford. You out there, Arnold? Take your damned toys and . . . !

I'm honored, I'm humbled. I might say I'm speechless, but nobody would believe that. The event has made me reflective, it has to. And like any other person, I've had my disappointments. A kid growing up in Brooklyn, obviously I wanted to play centerfield for the Yankees. It's true I've had some magnificent students: a Chief

Justice of the United States, a former governor of this State, a senator, Barney Frank. But do you know how demeaning it is to be working for one of your students? To have him as your boss? I never got to anchor *GMA* when David Hartman left; they gave it to Charlie. I could never take over *Jeopardy*; Alex Trebek goes on endlessly. Jeff Toobin—he put me out to pasture. But I’m so proud, so happy, that you have maintained the quality of reportage and description that I think is second to none. Because of my parochial being, I wish you hadn’t branched out of law, but I obviously wish you well. I do have this fear, you referred to it, that people blame me for Nancy Grace. But I always say to myself, you are my saving grace. And I wish you well, forever.

I’ve been lucky, I’ve been very lucky. I believe in serendipity. I don’t believe in planning; I’m a disorganized person. I pick up the telephone on the theory that the next call can change your life—and it has, on three or four different occasions. I’ve been graced and helped by wonderful, wonderful mentors. Two of them have been named. Benjamin Kaplan, my sort of God in terms of the law. Fred Friendly, my television God. But Jack Weinstein hasn’t been mentioned. I got to know Jack when I was doing that project on international procedure that the Justice mentioned. Jack was one of the advisors. We put together the International and Interstate Procedure Act, we hocked it around the country and played with Federal Rules. And serendipity, serendipity—because of a great sadness in terms of the death of one of his co-authors, he asked me to join him on Weinstein, Korn and Miller.¹ That was about 1961, Jack. That’s almost 50 years ago. I’m still writing these god-damned treatises!

I’m a bit of a Jekyll and Hyde, I really am. You know when I was in law school, I was quiet as a church mouse; I really was. John said he only spoke once in his years at law school. I only spoke once. Ben Kaplan called on me one day in first year procedure, posed a hypothetical about a New Yorker wanting to sue a Californian. And the question was, “Where should the lawsuit be?” So I said, “Iowa.” It seemed to me fair at the time. And again I’ve been lucky because after law school, after a couple of years at Cleary Gottlieb in New York, a great law firm, when Henry Friendly was still there, and Leo Gottlieb was still there, Jerry Hyman is out there somewhere, he was a senior associate at the time, Dick Holbert may be out there. Learned a lot. But it wasn’t until I started teaching; I guess I’m just

1. JACK B. WEINSTEIN, HAROLD L. KORN & ARTHUR R. MILLER, *NEW YORK CIVIL PRACTICE: CPLR* (2d ed. 2005).

a late bloomer. It wasn't until I started teaching at Columbia, part of the deal of my going up there and running this project as an assistant to Hans Smit, was that they would give me a teaching experience because they knew I was interested in teaching. And Columbia was weird then, as it is today, and they took their first-year course, and they divided it into three parts with three different teachers. There was Jack Weinstein at the front, Paul Hayes in the middle, and Maurice Rosenberg at the back. Three *great* proceduralists. Well, Paul Hayes was appointed to the Second Circuit, so they decided to throw me into the unit that Paul would have taught. So I had to follow Jack. Jack was well known for his capacity to walk on water at the time. I'm coming in after Jack, scared to death, scared to death. So what do you do with fear? Do you succumb to it? No. You—at least I—try to overpower it. So I prepared and prepared and prepared and prepared. I sort of wound myself up like a top, enormous winding. And I went into this class of about 160 in those days, and unsprung, I leaped! And instantly was born this horrific person they have been describing for two hours. And that's the Hyde side of me.

I've had great colleagues like Dave Shapiro, wondrous proceduralist. Great deans, including Ricky, who I think will be my last dean. Do you like that notion? You're my last dean. But this is not my valedictory. And I have to instruct every 2L in the room, and you 1Ls who may be in here, don't you dare tell the incoming students next August that I'm compassionate, or feeling, or a pussycat. Because that will only drive me to become my infuriating self once again. Once again, speakers, thank you for lying as you have, and thank you all for taking the time to be here.

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