

## TRIBUTE TO ARTHUR MILLER

*LINDA J. SILBERMAN*

Well, it's stunning to be in this group of speakers, and I'm really not quite sure how I managed to get here. Except that I see that I'm the last speaker, and you probably all are giving a sigh of relief at that, and I promise to be brief. But there's a symmetry in all of this, because Danielle began these talks, and Danielle is presently Arthur's Research Assistant. And I am here, I suppose, because, perhaps, I am Arthur's oldest living Research Assistant from the past. But I'm honored to be able to speak as part of this tribute to Arthur, and although my long connection with Arthur enables me to speak very personally about him, some of what I say is really on behalf of many other former students and Research Assistants of Arthur's, of whom there have been thousands over the years, and they would also want to acknowledge his mentoring and influence and say "thank you." Indeed I know they referred to us, the three of us who were Research Assistants when I worked for Arthur, as "the army," and when I look around now at his Research Assistants it's much more like a militia. If you look at the long list of Civil Procedure teachers in American law schools, one will find so many of Arthur's protégés, and some of them, like Harold Koh and John Sexton, have extended that influence far beyond just the academy.

My relationship with Arthur has spanned almost forty-five years. That can't really be right, it can't be forty-five, I'm not forty-five years old. But I was Arthur's student in Civil Procedure at Michigan in 1965, which was his first year at Michigan after his years at Minnesota. And he left his mark on me quite early in that semester. Danielle, some of the things you say resonate very closely with me because in that first class, and I tell you it was the first class, Arthur left me terrorized, and I was certain that I should never have come to law school. But Arthur had a method to all of this, and I was determined to show him that I was going to do this, and I was going to be successful, damn him.

It was the start of the second semester, after the midterm exam in which I had done quite well, when he asked me if I would like to be one of his summer Research Assistants, and that experience was extraordinary. As he did for so many, he trained the three of us to be careful, exacting, disciplined, thoughtful, and creative lawyers. I learned more in that summer than in the rest of my law school years. But I wouldn't want you to think that it necessarily started out

so perfectly. I already told you about the terror on the first day. But when Arthur first interviewed me for a research position, he asked me what I thought I wanted to do with my law degree. I said I hadn't really thought much about that; that I had attended law school classes as an undergraduate and I loved them and I really wanted that intellectual experience in a graduate education. Arthur then asked me if I thought I might like to teach. I immediately said, "No, no, I don't want to do that. I was an English major and I don't want to teach and that's why I came to law school." He looked stunned, and I realized, perceptive as I am, that this was not the answer one gave to a person who was dedicating his life to being a law professor, and so I explained quickly that I thought teaching was really a great profession, it just wasn't for me. Funny how things turn out, isn't it? Arthur had great faith in me, he hired me anyhow. I worked on that first edition of his casebook, and, as he did with John, he asked me as a second year student if I would like to teach his class, and I did. And it's the result of his influence, his personality, his training, his support, and help that I too became a Civil Procedure teacher.

But being Arthur's Research Assistant wasn't always easy. Danielle, you probably have similar experiences. Although I think Arthur has really mellowed over the years. Nobody has had the experience that we did so long ago. Arthur has always had very high standards and an unfathomable work ethic for both himself and for his Research Assistants. So there was one night during my second year when I was still working for him—it's very hard to get out. This time it was two o'clock in the morning, and both Arthur and I were in the office. I was exhausted, I had class in the morning, I was working on my Law Review note, and I told Arthur I was tired and I needed to go home. He looked up, stunned, stared at me hard and said, "You know, with that attitude, you'll never be a professional." Incredibly, I believed him. But, I did manage to go home, suffering all the time and knowing that probably I could never do this. But, when I later worked in a law firm in Chicago, and worked for a person who was said to be extremely demanding, nobody in the world would work for him, I thought he was a creampuff compared to Arthur.

Now I have a confession to make about how I viewed Arthur in those early days, and as a result you may be very skeptical about my judgment of human character. It wouldn't surprise you that I, like many, was mesmerized by Arthur as a teacher. He was brilliant and exciting in the classroom, and out of the classroom he was absorbed in interesting, but, at least to me then, somewhat dry, esoteric issues

of Civil Procedure. I now know that this is the most exciting subject in the world, but it was a while ago. So I was working on an esoteric issue with Arthur about the pleading and proof of foreign law. He was producing a treatise on New York procedure, the Weinstein, Korn & Miller<sup>1</sup> treatise, and was about to take on the task of overhauling a large federal practice treatise, now the famous Wright, Miller & Cooper.<sup>2</sup> And so I was enormously impressed that Arthur would spend these long hours on intricacies of Civil Procedure problems that did not seem to attract public attention, or the grand stage of media and television where his close friend Yale Kamisar could always be found discussing the recent *Miranda*<sup>3</sup> case and other important criminal cases. So my view then was that Arthur was content to work as a secluded monk who cared nothing about the limelight, or public adoration. He did not want to be a TV star or need to be in the spotlight. He was just a Civil Procedure teacher.

Well, my view changed, and as we know, Arthur has a great gift for communication. Not just to law students in the classroom, but to lay people about a range of important legal issues with broad, public ramifications. We've heard today about the *Fred Friendly Seminars*, his role as legal correspondent on *Good Morning America*, his TV show in Boston, *Miller's Court*, and that's all a great testament to his communication skills. He's able to take complex information and make it immediately understandable even to the uninitiated.

I'll always remember a phone call that came from Arthur early one morning, very early in the morning, about six o'clock. "Is everything OK?" I asked. "Yes," he said, "but just tell me everything you know about international child abduction. I'm on TV in a half hour." I thought to myself, "This is absolutely impossible. I know everything about this subject, and I couldn't be on TV in an hour!" I gave him a summary of the issues as I saw them, and I turned on the TV. And it was, as always, a magnificent performance, clearly defining the issue, analyzing the problems presented, engaging the viewer, making it completely understandable, and seemingly the world's greatest expert on this topic. Arthur, sometimes it's really hard to be your friend.

After the years of being his student and Research Assistant, as well as babysitter for his son Matthew, I developed a close friendship with Arthur that grew steadily over the years. When NYU was

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

2. CHARLES ALAN WRIGHT, ARTHUR R. MILLER & EDWARD H. COOPER, *FEDERAL PRACTICE AND PROCEDURE* (3d ed. 1998).

3. *Miranda v. Arizona*, 384 U.S. 436 (1966).

looking for new faculty about a thousand years ago, Arthur recommended me to the hiring committee, and I have no doubt that it was his strong support and recommendation that led NYU to offer me this job—this job that I love, for this subject that I love. And when I came to NYU, I wanted to emulate, if one could ever emulate, Arthur. So I became a Civil Procedure teacher with Arthur as my role model.

On a more personal note, we have shared ups and downs in our lives. He was at my wedding to Victor, and I have been at almost all of his weddings. It's an enormous pleasure to have him close by as a colleague now, and to share our lives in both professional and personal ways. Some of you may know that his Personal Assistant Kristin is my niece.

Now, I've almost always been happy and proud to acknowledge Arthur's enormous influence, but there's one place where I need to set the record straight, and to be fair, Arthur himself has set it straight. And that's with respect to Arthur's wonderful Kuniyoshi Japanese print collection that he has recently given to the Friends of the British Museum and which is presently on display at the Japan Society. And I say to you, if any of you have not seen it, I urge you to go. It is absolutely spectacular. I also collect Japanese prints, of a different artist of about the same period, though of course, my collection is much smaller. And there have been some that have said to me—knowing of Arthur's extensive collection and of his enormous influence in my life—"Really Linda, did you have to follow him in your art collecting as well?" But it was I who first started collecting Japanese prints, those of a printmaker by the name of Yoshitoshi. Arthur was at my apartment one day, was intrigued by my prints, and we went together to look at prints at a New York gallery. Shortly thereafter and over the years, Arthur became one of the foremost print collectors of a different artist, Kuniyoshi, and he has now generously given that collection to the Friends of the British Museum. But it's been gratifying for me to know that perhaps I may have opened at least one door for Arthur, after the many that he opened for me. And I have always been moved by the fact that Arthur chose to collect the prints of Kuniyoshi, who was none other than Yoshitoshi's teacher. And that is really the reflection: Arthur is the consummate teacher and mentor and the scores of former students and Research Assistants and others who have felt his influ-

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ence are here to honor him today. Just look around. With thanks  
Arthur, from all of us. Thank you.

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