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Memorial Tribute to Daniel Howard Distler (1925-1962)

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MEMORIAL TRIBUTE TO DANIEL HOWARD DISTLER (1925-1962)

A brilliant career of teaching and scholarship was tragically cut short at the threshold with the sudden death of Daniel H. Distler on July 9, 1962. Concentrating on science in his early education, Dan, while in military service, was assigned to the Manhattan Project where his technical effort won commendation. Upon his discharge, he completed his scientific studies at Brooklyn Polytechnic Institute, graduating in 1948 with a degree of Bachelor of Electrical Engineering. The law attracted him and he entered Columbia Law School. His work there was outstanding and won recognition both from his instructors and his fellow students. He was designated Harlan Fiske Stone Scholar in his first and second years of law school, and was elected Notes Editor of the Columbia Law Review in 1950, a position which he filled with distinction. Upon graduation from law school in 1951, he entered private practice in New York City. His deep interest in the law led him to accept a staff position with the Temporary Commission on the Courts, working under Professor Jack Weinstein on the first comprehensive revision of New York procedure attempted in almost 100 years.

The tribulations of the Tweed Commission are a part of the drama of American procedural reform that cannot be told here. For about five years of aspiration and conflict, Dan was immersed with his associates (in 1956 he became associate reporter) in every phase of civil procedure. Throughout he demonstrated not only a sure grasp of the enormous detail of New York civil procedure but also a growing command of the fundamentals of procedural systems and a brilliant precision in draftsmanship.

During the year 1960-61, while working on the final stages of the bill which the legislature ultimately enacted, Dan joined the Columbia Law School faculty as Adjunct Associate Professor and reorganized its Moot Court program with remarkable success. This experience convinced him that teaching and scholarship were the fields to which he wanted to devote his rich talents, and in the fall of 1961 he came to the University of Buffalo School of Law as Associate Professor. He taught a four hour senior course in Evidence the first semester, and the second half of the senior Procedure course as well as first year Equity in the second semester.

His gift for teaching was promptly and emphatically recognized. His colleagues, touching on questions of evidence in other courses, were startled by the crackling response from students which revealed their excitement and involvement in Dan's evidence course. Organized around a tightly knit analysis derived from the teaching of Jerome Michael, and demanding the most precise logical analysis of each step in the inferential process, the course was nevertheless infused with a keen awareness of the practical problems confronting the workaday lawyer in the preparation and trial of a lawsuit. Here was one more example of the falsity of the commonly expressed dichotomy between the

practical and the theoretical in law; one more demonstration of the testing which practice brings to theory, the power which theory brings to practice.

The qualities which distinguished Dan as a teacher also marked him as a continuously challenging colleague. His enormous energy, his vital interest in all aspects of the law, his zeal to make it a better instrument for justice, his pride in his legal craftsmanship, and his forthright honesty made his presence deeply felt wherever he worked. Those who had the privilege of working with him in legal education will always carry a sharpened sense of self-criticism and a heightened pride in their calling.

DEAN JACOB D. HYMAN
University of Buffalo School of Law

One of the chief architects of New York's new Civil Practice Law and Rules, to be effective in New York in September, 1963, was Daniel H. Distler, Associate Professor of Law at Buffalo Law School. Cut off suddenly in the prime of his young manhood, Professor Distler died without warning at the age of thirty-six.

As a student at Columbia's Law School, his record was outstanding. By electing him Notes Editor of the Law Review, where he would be responsible for supervising and revising the most exacting and important work of the editors, his professional peers had early expressed their esteem and belief in his competence.

From 1951 to 1952 he was an associate of House, Grossman, Vorhaus and Hemley in New York City, and from 1952 to 1956 he had a successful individual practice in Mineola, Long Island. But this practice did not satisfy his creative needs, and in 1956, at material sacrifice, he became Associate Reporter to the New York State Advisory Committee on Practice and Procedure. During the period up to the completion of the Advisory Committee's work in 1961, he was responsible for much of the work embodied in the five Reports of the Advisory Committee—which probably constitute the most thoroughly documented revision of practice in this country—and the various bills submitted to the legislature on its behalf. Much of the material on pleading, provisional remedies, and enforcement of judgments in the new practice was his work.

While he was employed by the state, for all practical purposes he was a research professor of Columbia Law School, where he had his office. Scores of law students assisted in the extensive studies that supported the revision and all of them looked to him for guidance. During this period, much of the most valuable instruction in research, writing and legislation at Columbia was conducted by Mr. Distler as an informal, but necessary, part of the revision of New York practice. He participated in the Seminar in Judicial Administration and was welcomed into the faculty's fellowship.

MEMORIALS TO DANIEL HOWARD DISTLER

Members of the Advisory Committee on Practice and Procedure depended heavily on his knowledge and judgment, which was tempered by his years in private practice. He participated actively in each of the monthly sessions with the Advisory Committee where drafts were analyzed, fought over, torn apart, and finally put together after a consensus had been reached. Distler's ability to think and write with precision and speed made viable many adroit compromises. His humor helped make these meetings an experience in the joyous release from self that is one of the higher rewards of public professional work of this kind.

When it was necessary to explain decisions to the bar, he proved an effective and eloquent public speaker. So moved was the Northern Westchester County Bar Association by a speech he delivered to them on the need for improvement in civil practice that he was spontaneously elected an honorary member of that Association.

In 1960, Mr. Distler was appointed Adjunct Associate Professor at the Law School of Columbia University to revise the writing and moot court program. This mission he accomplished with great skill.

The University of Buffalo appointed him Associate Professor of Law in September of 1961. There he taught Evidence and Procedure. Within an academic year all his colleagues had come to rely on and respect his judgment and ability. Students had recognized in him a fine teacher—skilled in his fields, with integrity, patience and understanding.

Daniel Distler was driven by a desire to achieve excellence that was sometimes exasperating to his colleagues working to finish a job in the early hours of the morning. If the work continued long enough, his pressures and those of his closest colleagues often were released by the giddy and peeling laughter that is compounded of desperation at knowledge that the job can not be done and realization that it is ludicrous to be doing it. Always, in the light of a new day, his associates were appreciative of his insistence on attempting to achieve perfection.

He was a large, tall man, with strong features, somewhat stooped, giving an impression of great integrity and strength. Students turned to him for help and understanding, without the restraint that sometimes inhibits relations among students and their teachers in law schools.

There was a zest for living and a breadth of interest, with a warmth and ability to communicate, that made Mr. Distler a delightful companion. As a member of the Gilbert and Sullivan Society, a lover of the arts, a person interested in the intellectual dialogues of our time, and a tinkerer with electronic and mechanical devices, he brought to table conversation the kind of interest in life that made him a fine friend and companion.

Daniel Distler answered the current call for better understanding between the arts and sciences. With his degree in engineering from the Polytechnic Institute of Brooklyn and his work during the war as a staff member of the Manhattan District (atom bomb) Project—he held the Manhattan District

Special Award—he brought to the law an intimate awareness of the forces of knowledge boiling through our society.

The loss to his widow Gladys, his children Barbara Joan and Michael, others of his family, his friends and colleagues, is clear and sharp. What cannot be known with any clarity is the full measure of deprivation which will be suffered by the legal profession. For there is no doubt that Daniel Distler would have continued to play a leading role in training lawyers and in improving the law.*

JACK B. WEINSTEIN

Professor, Columbia University School of Law

The qualities of an outstanding professor are difficult to enumerate. Certainly he must have patience, for he must withstand a bombardment of questions and numerous agonizing disappointments caused by his students. He must command the respect of the student body which is engendered by a depth of knowledge of the subject matter, a forceful presentation of it, and a sincere interest in the individual student.

Daniel H. Distler possessed all of these qualities and was an outstanding professor of the law. As the years pass none of his former students will forget his probing questions, his white attendance cards marked with X's and O's, his glass pointer, his probans and probandum, and his "silly" cases and "silly" sections of the Civil Practice Act. Yet more than his personal characteristics, we shall remember the man as one who instilled in his students a feeling for the law. His intellectual prowess strengthened all those with whom he came in contact. He was a man with vast energies, with little spare time but ever willing to edit a law review article or assist a questioning student.

We his former students, ever grateful for having had the brief opportunity of learning from him, mourn deeply his passing.

WALDRON S. HAYES, JR.

Member of New York State Bar

University of Buffalo School of Law

Class of 1962

* Mr. Distler's writings include:

Major contributions in the reports of the Advisory Committee on Practice and Procedure: First Preliminary Report of the Advisory Committee on Practice and Procedure, N.Y. Leg. Doc. 6(b) (1957); Second id., N.Y. Leg. Doc. 13 (1958); Third id., N.Y. Leg. Doc. 17 (1959); Fourth id., N.Y. Leg. Doc. 20 (Advance Copy 1960); Fifth id., N.Y. Leg. Doc. 15 (Advance Draft 1961);

Summary of Civil Practice Law and Rules (1962) (1960) (coauthor);

The Course of Costs of Course, 46 Cornell L.Q. 76 (1960);

Enforcement Priorities and Liens: the New York Judgment Creditor's Rights in Personal Property, 60 Colum. L. Rev. 458 (1960) (coauthor);

Commentary on New York Civil Practice Revision, 60 Colum. L. Rev. 86-95 (1960) (Postgraduate Conference Speech);

Drafting Pleading Rules, 57 Colum. L. Rev. 518-525 (1957) (coauthor).

At the time of his death he was engaged, with others, in writing a multi-volume treatise on the New York civil practice.