It is difficult to believe Irving Younger has been gone twenty years. He was too immediate to be gone, and certainly not so long.

Spending time with Irving was a delight. It was verbal champagne. Ideas bubbled, and popped. Some floated again, or were replaced by better. A chat became a free-association symphony.

Some of the effervescence must have come from his protean nature. He’d been valedictorian of New York City’s leading science high school, starting college as a pre-med; thereafter it was all arts, theater, music, and English. With that background, it had to be Law—the only field encompassing the full range of his interest.

Irving’s law was not a mere academic or society-regulating exercise. It was one of the lively arts. Like music, or painting, or theater, or dance, it enlightened our humanity. The law was a theme, embodying the things making us human and life worth living.

Oh, I suspect, like many of us, he’d struggled to find romance in the IRS code, or a traffic fine table. But then, he’d think about how society regulated behaviors using tax incentives, or how a family might have to hurry to get to a favorite vacation site. Under those conditions, even the most mundane rules might enlighten the human spirit.

I first saw him in the early 1970s. The Federal Rules of Evidence were newly adopted and Irving came to Chicago to teach them. I’d heard of a person who could make evidence—evidence!—fun and interesting. One who could do that could certainly spin straw into gold.

The lectures (two of them, two and a half hours apiece) flew by. This was law as I’d never learned it, heard it, or seen it. The Rules were there, but funny, enlightening, and stunningly lucid. What in the world
PREFACE

had I studied when I took that course? This was evidence as people, how they lived, and how they worked.

Many years later, Irving and his beloved Judith—herself a distinguished law professor and former law school dean—moved to Minnesota. There, I was lucky enough to get to know them, and there I heard him deliver his astounding lectures on “The Trial of Alger Hiss” and “What Happened in Erie?”

Irving brought Alger Hiss’s times and trial to life, illuminating the Cold War and the 1950’s “Red Scare.” This was a spy novel, careening from the State Department, to Wisconsin’s Joe McCarthy, to Richard Nixon and the “Pumpkin Papers,” with a terrifying inevitability. This was no history lesson. It was a tale of real people, under pressure, culminating in a pivotal trial, which would pave the way for Richard Nixon’s elections and, ultimately, to Watergate.

In the same way, we all know how every law student chews through Erie v. Tompkins. This story, however, is far different from the one we learned in law school. We visit the accident site, agonize with the trial judge, and find that the ultimate appeal hangs as much on the personalities of the lawyer who pursued it and on the Justice who accepted it as it does on the facts. This is a human drama, not simply the most cited case in Supreme Court history.

Irving unfolds the mysteries of hearsay, peopled with gangsters and hucksters and fools and knaves. The Rule is no longer a collection of slogans and exceptions, but a sensible set of principles making logical sense, fit into a human drama.

This book reminds us of Irving Younger’s mastery of the courtroom. He knew its techniques and its foibles. But he deeply understood the practice of law is first and foremost a tale of people and those they touch.

These technical lessons and personal tales show us why the law is a subject of value. Irving Younger was timeless, much as Shakespeare and Dickens were timeless. For each, the stories that last illuminate
our common humanity and experiences. These stories are enlightening as well as educational. Reading this book, we spend a few hours with a master. It’s time well spent.

James M. Rosenbaum  
Senior United States District Judge  
District of Minnesota  
Minneapolis, MN  
2010