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James J. White

University of Michigan Law School, jjwhite@umich.edu

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THE VEXATIONS OF AGING FROM THE IMAGINATION (A LOT) AND LIFE (A LITTLE) OF BILL MILLER

*James J. White**

LOSING IT: IN WHICH AN AGING PROFESSOR LAMENTS HIS SHRINKING BRAIN. By *William Ian Miller*. New Haven and London: Yale University Press. 2011. Pp. viii, 328. \$27.

INTRODUCTION

Bill Miller¹ has done something quite uncommon, possibly singular: he has become a prominent law professor by writing books that have nothing to do with the law. His books do not even have the remote relation to law that books by philosophers or historians can claim. Having studied medieval history before law school and achieved law school tenure by teetering on the edge of law in his work on Icelandic sagas, Miller jumped the fence completely in his books *The Mystery of Courage*, *The Anatomy of Disgust*, and *Faking It*. He has never returned. Presumably, this Review earned a place in an issue devoted to “law books” only because the student editors could not swallow the heresy that a member of a law faculty—who, believe it or not, teaches property—could be writing about something unrelated to law.

Where in the academic literature do Miller’s books on courage, faking, and disgust, and his latest book, on old age, fit? Certainly, those who describe his latest book *Losing It: In Which an Aging Professor Laments His Shrinking Brain* as an autobiography are wrong. Of course Miller, in his most engaging, neurotic manner, uses his own real and imagined experiences as examples, but those examples do not make an autobiography. All of his books take behaviors that everyone has experienced directly (disgust and faking) or vicariously (courage), and disassemble them to show their qualities and demonstrate our ignorance—is a Japanese soldier who has been trained from youth to fight to the death exhibiting “courage” when he heads into battle? These books belong to psychology or maybe sociology. Bill Miller is a fine lawyer, but he is an even better psychologist.

Losing It could be titled “Denial and Acceptance.” The main theme of the book is introduced by a quotation from *The Tempest*: “And as with age

* Robert A. Sullivan Professor of Law, University of Michigan Law School. Miller suggested me for this Review not because I am informed, but because I could be trusted as a friend to not go too hard on him. As the oldest “active” member of the Michigan Law faculty, my daily experience as a geezer, or what I can remember of it from one day to the next, does give me relevant, firsthand experience. The word “active” is in quotation marks to warn the reader not to infer too much physically or mentally from that word; it means only that I am not yet formally retired.

1. Thomas G. Long Professor of Law, University of Michigan Law School.

his body uglier grows, So his mind cankers.”² Bill traces (and exaggerates) both our mental and our physical decline. And he firmly rejects the thought that there is any redeeming or offsetting virtue in growing old. Through references to biblical and ancient Icelandic characters, Miller rounds out his case not only for the decline that the aged suffer but also for their capture by unbecoming thoughts and behavior; in his view they are peevish, selfish, mean spirited, and generally unhappy. But as I will suggest, we should be skeptical of these claims and skeptical even that Miller really believes them to be true.

Unlike all of the other reviewers of this book, I am a good friend of Bill, and I recognize many of the book’s examples from personal conversations with him. I have listened to his extensive, neurotic complaints about his knees, back, and memory. So I have more context than others, but I am also constrained from saying what a harsh critic might given my knowledge of Bill’s extremely thin skin—a trait displayed last winter when an unfriendly reviewer dismissed the book as the whining of an aging baby boomer.

That critic was wrong. Bill is not whining; he is doing here what he did before in *Courage* and *Disgust*. He is showing the complexity of something commonly thought to be simple. By forcing us to abandon denial and to recognize the daily manifestations of our decline, he is doing something that he did not have to do in his other books: he is attacking our psychological defenses. Understand that Miller is not really complaining about his own mental and physical decline (that is, whining). Rather, his mischievous purpose is to raise our self-appreciation so that we can all be as miserable as he pretends to be.

I. SEEING OURSELVES AND OTHERS

A. *The Body*

In the very first chapter, Miller makes plain that very old people are very ugly. He makes the point with a brief and sharp picture: a woman so old and ugly that she drove the four-year-old Billy Miller to tears out of fear that he would become like her. “The wrinkles, the blotched skin, the gnarled hands that reached to pat my head, the wart with a hair like a dog’s whisker sticking out of it . . . the thick glasses that monstrously magnified the eyes, the goiter on the neck” (p. 17). I doubt that big Billy really remembers all of that, or that any people like her really lived in Green Bay sixty years ago, but even if the description is exaggerated, the effect is perfect. We get it: to the very young, the very old are grotesque. A Hollywood director could not improve on Miller’s image. That image, and others like it, give life and spice to Miller’s writing. It helps that he goes an unkind step beyond the bounds of decency in describing the old woman.

2. P. vi (quoting WILLIAM SHAKESPEARE, *THE TEMPEST* act 4, sc. 1, at 47 (A.C. Liddell ed., London, Longmans, Green & Co. 1891)).

So we aged are ugly. And, worse, Chapter One shows how our conscious and subconscious minds refuse to recognize how old and worn we look. Even after our conscious mind has received our reflection in the mirror or shop window, our subconscious mind refuses to accept it. Miller gets this just right when he notes that others—e.g., our students and colleagues—see through our denial and attending vanity. Miller, of course, shows his vanity by affecting an air of casualness in what is really a conscious and attentive conformity to the uniform of the postmodern male law professor (rubber-soled hiking shoes, denim blue jeans, and a blue denim or flannel work shirt). One of the wicked pleasures of having coffee with Bill is to suggest (truthfully or not) that he has a crumb of food hanging on his lip. The suggestion of food hanging on his lip—a sure sign of losing it—always drives the vain Miller into a fit of desperate swipes across his mouth to remove the offending crumb.

In any case, Chapter One nicely sets up the book. It acknowledges how awful we look—a whisker ornamenting an ear or a wart—and recognizes our refusal to see the evidence of old age even when it is before us in the mirror.

B. *The Mind*

“Things just do not happen as quickly in my brain as they once did” (p. 27). Miller shows us this by reciting his decline in reading speed, his failure to recall the meaning of well-known words in ancient languages, his inability to do simple mathematics without a pencil, and his inability to recall what he read last week.

He also identifies a telling sign of the aging mind—its tendency toward distraction. One opens his email inbox to get data from an old message that he knows to be there but then is distracted by a new message and, having read the new message, forgets his original purpose in opening the inbox. Put differently, the aging mind seems to lose its power to contemplate two or more successive tasks simultaneously.

By parading these explicit examples in front of us, Miller forces us to acknowledge these very failures as committed by our own minds. Even a determined denier will be forced to recognize his own mental failures in Miller’s recitation. So Chapter Two confirms mental decline just as well as Chapter One confirms physical decline.

II. MEANNESS, AVARICE, COWARDICE

In Chapter Four specifically and in the chapters that follow, Miller embraces the “negative” view of old age. Going well beyond his documentation of failing flesh and faltering minds, Miller attributes a host of pejorative attitudes and habits to old age: “meanness, avarice, cowardice, peevishness, irascibility, moroseness, whining, . . . [and] repetitive garrulity” (p. 40). Since each of these nouns except garrulity includes an element of unhappiness, we can add unhappiness to the ills of the aged. His list implies what he

does not say, namely that these characteristics are found more frequently in the old than in the young and middle-aged. So he is making the claim not just that old people exhibit these qualities, but also that they experience them more commonly and more intensely than others.

To make sure that the reader appreciates the strength of his opinion, Miller even attacks the academics that purport to find some good things about old age. These academics are adherents to “positive psychology” (p. 35). They claim that their survey research shows that old people are often happier than when they were young and are generally as happy as people of other ages. Miller gives a couple of vague references to studies that show emotional as well as intellectual decline with age, but he does not directly address the data of the positive psychologists. Instead, he ridicules their findings as “snake oil bearing the Stanford label” (p. 35).

Here I think Bill is wrong. He is straining to maintain his status as an iconoclast and curmudgeon. His thesis is that old people lose their muscle and then their minds, but the idea of happy (even if greatly diminished) geezers conflicts with that thesis. How could they not be ashamed that their golf handicaps have risen from seven to twenty-three, or that they can’t do crosswords as well as they could before? Have they no self-appreciation, no dignity to be offended?

Few would accept the ills of old age just to avoid the stress and uncertainty of youth, but consider things that the young and middle-aged face but that the old-aged avoid. The complicated and anxious rituals of dating and mating are gone. A child’s drug use, unwillingness or inability to go to college, or difficulty finding a job in a bad market has been resolved somehow. No longer is there the need to find the cash to acquire a fancy house or car. The precarious financial status of the elderly is a popular topic for the press now, but for many, the income available in retirement meets their diminished needs just as well as their income in middle age did.

Bill needs to remember the point that he makes in the book—law professors are blessed by being paid well for doing something that they enjoy. But we are the exception, not the rule. I see many lawyers who are frustrated and angry with the practice of law. Surely, the same must be true of those doing mindless factory work, hard menial jobs in hotels, garbage pickup, or waiting tables. How many midlevel employees are economically chained to a job in which they detest their boss? If these persons have put aside some money to go with their social security annuity, retirement means escape from work that they despise or suffer silently.

And not all lost skills are missed. A couple of years before he died at the age of ninety-three, my father-in-law quit playing golf. At lunch one day, he said that he did not miss playing golf, not even once. I doubt that the accountant who could carry ten-digit numbers in his head at age twenty-five worries much about the loss of that ability. Even I, who for twenty years enjoyed a prized avocation as a fighter pilot with the Air National Guard, cannot say that I miss flying much. I look back at it with pride and pleasure, but I would not today undertake the aggravation caused by harebrained superiors and the boring ground training that attend military flying.

It weakens Miller's argument that he draws many of his examples of angry oldsters from antiquity. Consider Bersi, Kveld-Ulf, and Egil, all of the Icelandic Sagas, and David and Solomon from the Bible (pp. 61, 71–75, 102, 130). Being killed by one's child or brother is little to be feared these days. Miller need not fret that any of his four children will seek to hasten their considerable inheritance by doing away with their old man.³ Despite the financial insecurity that some aged experience, their lot is far better off than it was in the time of George Washington or Caesar. We need not fear the vengeance of an angry king or the call to wage hand-to-hand combat in a blood feud. Miller's examples of angry, vengeful oldsters from twelfth-century Iceland or early Palestine make for interesting reading, but they do not accurately represent the world to which Miller speaks.

What really exposes Bill's insincerity in his claims about the aged's meanness, peevishness, et cetera, are the references to his mother and father in the book. It is his father, "a good and dignified man," who then beyond the age of eighty-five, challenges Bill's defense of the handsome salary that he earns writing about Icelandic sagas, and it is his father, the businessman, who asks the question that none of us ever ask each other: "What use would anyone put that to?" (pp. 193–94). Bill makes no suggestion that his father was losing it, nor that he was showing any real "meanness" in tweaking his son's nose. We see his mother in the addendum where she (age eighty-nine) takes Miller (age sixty-five) to the emergency room (pp. 264–65). He only hints there what I know from many conversations—that his mother is the picture of an active geezer. At age eighty-nine, she is still an accomplished and frequent golfer, follows the Packers, and has her wits about her.

So here are two examples from Bill's own life of people clearly in old age who exhibit none of the negative qualities that he asserts are the norm. They, of course, do not appear in the book as contented and happy geezers, but only because there is no room for such in the pessimistic story that Bill is telling. I believe that Bill is too quick to cast aside the positive psychologists' findings. He is too determined to maintain his dour, pessimistic façade. Stories about the worries and trials of old people from Shakespeare or antiquity better serve his purpose.

III. THE REST

Having dealt directly and persuasively with the story of physical and mental decline in the first few chapters, Miller devotes a large part of the rest of his book to topics that are only tangentially related to losing it. But many of these chapters are graced with little essays written with style and insight. For example, he tells us stories about the attempts of persons on their deathbeds to posthumously control their wealth. For example, we learn of Hrapp, who directs that he be buried upright by the front door of his house so that he can oversee his land and, presumably, curse anyone who does anything contrary to his wishes (pp. 159–64).

3. Miller's kids seem even less interested in money than their father.

In that same chapter, there is a little essay on the Rule Against Perpetuities, a common law rule designed to restrict the amount of time during which a decedent's wishes will be honored (p. 168). Bill describes lawyers' and students' difficulty in understanding and applying the rule, and laments that some states have now lowered the barrier to allow what the rule formerly prohibited. Here, we see Bill's perverse claim that complex and obscure is better than simple, and old is better than new. But he doesn't really believe any of this; he is just protecting his churlish reputation.

Some of the book's chapters, like Chapter Nine, are so far removed from losing it that it is hard to see the thread that attaches their topics to the perils of old age. For example, Miller tells us about how Jews and Christian monks, whose prayers for rain had gone unanswered, attempted to humiliate God (or, in the monks' case, their patron saint) through "shaming rituals" in which they blamed God or the patron saint for not answering their prayers. He explains how these rituals might have been thought to work by showing that the shame god actually competed with other gods and was acutely sensitive to his followers' potential defection to other gods.⁴ These stories show Bill's keen appreciation of shame, its invocation, and its workings, but what do they tell us about losing it? Not much, it seems to me.

CONCLUSION

Losing It is a delight. It is so because Bill nails the physical and mental decline and the accompanying denial that come with old age. Most of that work is done in the first few chapters. The rest of the chapters make for good reading, not because they add much meat, but because they give a place for Bill's free association and clever capacity to tell and explain tales from the Bible, to the Sagas, to Shakespeare.

4. See pp. 110–13.