A Tribute to Sandy as Teacher

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Years before I knew Sandy as a fellow faculty member and then as Dean, he was my teacher. When I entered Michigan Law School in the summer of 1962, one of my three courses was Sandy’s Criminal Law. A year later I took Conflicts of Law from him. At that time Sandy was also an active labor arbitrator, and I spent a year as a kind of law clerk for him. Under these circumstances I got to know him about as well as any law student, in our harried times, gets to know a teacher.

I have had many more teachers than most people; besides college and law school, I have gone through two M.A. programs. Yet among all of my teachers, I treasure Sandy as one of the two or three best.

He was a great classroom teacher in many different ways. First, in both of the courses I took from him, he gave his students a fundamental perspective on the subject. In Criminal Law it was the clear-headed mens rea analysis of the Model Penal Code; in Conflicts of Law it was Brainerd Currie’s governmental interests analysis. With these perspectives, we were enabled both to comprehend each course as a coherent whole and to deal with particular problems on our own.

Second, in this way Sandy also taught us what good teaching is like. I realize that there is a contrary pedagogical ideal whereby students are offered a variety of perspectives and are encouraged to pick one for themselves. This was not Sandy’s way; and from my own experience, I am persuaded that he was right. All the teachers whom I look back on as especially helpful pushed their own favored perspective and pushed it hard. Students alert enough to absorb the teaching were by no means bound by it. On the contrary, with a coherent starting point for evaluating subsequent experience, we were enabled, for better or worse, to arrive at our own views of the subject.

Third, in this way Sandy also taught us a fundamental perspective on legal problems generally. Once I was talking with another member of our faculty about that moment in our first year of law school when some cliché or other suddenly seemed to illuminate the entire subject of law for us. My revelation was this: You can’t apply a legal rule intelligently unless you know the reason for the rule. Every day in class, Sandy’s way of teaching instilled in us this perpetually useful maxim.

Fourth, and perhaps most important, Sandy taught us the respon-

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sibilities of a reasoning person. Learned Hand once disparaged "lazy judges . . . who win the game by sweeping all the chessmen off the table." Sandy eschewed all such devices in class, and he never allowed us to use them either. Expressly and by example, he daily taught us the responsibility to face up to reasoned objections conscientiously and with candor. The Case of Lady Eldon's French Lace, Sandy's exploitation of a minor but indicative problem in the law of attempts, will convey to those who never had him as a teacher the quality I am describing.

As arbitrator, also, Sandy was a great teacher. The lessons that mainly stuck in my mind concerned what due process is about—not just as an abstract principle but in concrete situations. For example, there was a case in which a disturbed person was fired for incompetence. There was no doubt that she was an ineffective and exasperating employee who was getting worse all the time, so my sympathies were with the employer. The trouble was that before firing her, the employer, apparently without ill will, had moved her from a job in which she was still barely tolerable to one at which she was a total failure. Sandy nullified her discharge, suggesting that she be restored to her previous job. He explained to me that even if you may be quite justified in doing someone in, you still have to turn square corners beforehand.

While we were driving to one of these arbitrations, Sandy taught me another, less momentous lesson—that teachers are not as dumb about practicalities as students are apt to think. At the time I had a roommate who was taking a course from Sandy. He was prone to cut class and wondered whether this would count against him. In my most nonchalant manner, I asked Sandy, "Do you bother to take attendance in any of your classes?" His response was prompt and emphatic: "You can tell your friends that I employ the most advanced sampling techniques, so they'd better show up."

I am not under any illusion that all of his students responded to Sandy as I did. He could be impatient with those who either had no grip on the assigned material or who questioned the value of what we were doing. But to the rest of us he seemed to give his best thought, and when we responded in kind he was elated. This was yet another truth that I learned from this great teacher: Teaching is a peculiarly hallowed vocation. It imposes daunting obligations and in return offers moments of exaltation.

1. Hand, Mr. Justice Cardozo, 39 Colum. L. Rev. 9, 10 (1939).
As I write these words, I have one reader mainly in mind, and that is Sandy himself. I am grateful to the California Law Review for this opportunity to assure him, as deliberately as I can, that I clearly remember the good old days and treasure them as among the finest of my life.