

THE PERSONAL IS THE PEDAGOGICAL: A VERY BRIEF LIFE OF PROFESSOR STODDARD

ROBERT MURPHY*

Tom Stoddard—though more famous as a civil libertarian and gay rights advocate—was first and last a teacher. His brother John Stoddard remembers Tom, as a small child in the early 1950s, making John “learn all the capitals of all the states and of every country in the world. He knew them, and he wanted me to know them, too.” And only days before Professor Stoddard, at 48, succumbed to HIV disease, he submitted grades for his “Legislation” course. Despite the sudden physical decline that forced him to cancel class sessions before the end of the semester, he marked papers and exams at the hospital and then from his sickbed at home.

Fortunately, the didactic methods Tom inflicted on his kid brother had broadened, as a sample of comments on (anonymous) course evaluation forms from “Legislation” and “Sexual Orientation and the Law” reveals:

- This is by leaps and bounds the best class I have taken in 3 yrs. at NYU. The rest of the faculty should sit in on Prof. Stoddard’s class—this is *REAL* teaching! Many thanks for a wonderful classroom experience—I was beginning to think that was impossible in law school.
- Insightful, provocative, brilliant, inspiring. One of the best professors I’ve had the pleasure to learn from.
- Professor Stoddard is the living God[!] I found his practical, real-world experience to infuse his discussion of legislation with more life and insight than any mere academic could have.

What created such impressions? To begin with, Professor Stoddard knew the legal doctrine cold; but, then, so do most professors. Far rarer was his appealing classroom style—curious, eloquent, analytical, respectful, modest, passionate, droll. But what moved students most was Tom’s uplifting idealism, the conviction he conveyed that there is such a thing as justice despite much contrary evidence, that it does sometimes prevail, that lawyers (wherever they work) can make a place for themselves in the world helping it prevail, and that

* Law clerk to Hon. Danny J. Boggs, U.S. Court of Appeals for the Sixth Circuit. This Essay is based on interviews I conducted between 1993 and 1997 with Professor Stoddard and many of his friends, relations, and colleagues.

doing so can give meaning to life and can even be great fun. Sometimes Tom said this in so many words. Always he taught this by example.

And whence these pedagogical gifts? Largely from Tom's own teachers—broadly defined—and from Tom's ability to absorb, personalize, and convey their lessons.¹

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Tom attended Georgetown University from 1966 to 1970. While in Washington, Tom worked on the Hill, marched against the war, and joined a brigade to carry supplies into the "burning ghetto" after Dr. King's assassination in Memphis. And like many Georgetown students, Tom fell under the spell of Professor Carroll Quigley, master of the legendary course "The Development of Civilization." As a student two years ahead of Tom later observed, "Quigley argued that the defining idea of Western civilization and of the United States in particular was what he called future preference—the idea that the future can be better than the present and that each of us has a personal, moral responsibility to make it so."²

"Quigley taught me how to think," Tom said.

He also gave me a sense of the importance of political commitment and engagement, and he told us that it was important for us to get involved. Quigley also repeatedly condemned the tendency of middle class people to seek stability at the cost of other values in life. And since we were all middle class people, he harangued us on a regular basis about our futures, and told us to take risks and be daring, and do the things that I like to think I've done with my life. He was outrageous and histrionic and passionate and deeply humanistic. All of those things I found enormously attractive. I thought he was the best teacher I'd ever seen, and some of the things I like to do as a teacher I saw him do.

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After Georgetown, Tom worked for several years in New York for the American Field Service (AFS) student exchange program. In 1973, AFS sent him to run its regional office in Minneapolis. There, Tom took the first positive steps toward establishing his long suppressed identity as a gay man.

¹ In this brief attempt to view Tom's life through the prism of his teachers, there is space to discuss only a few of them. *Inclusio unius* does not apply.

² President-Elect William J. Clinton, A New Era of Peril and Promise, Address Before the Diplomatic Corps, Georgetown University (Jan. 18, 1993), available in LEXIS, News Library, Arcnews File.

On a shivering December night, Tom, then 25, worked up his courage and entered a gay bar for the first time. (In part, he claimed, he went to "Sutton Place" to get warm: responding to the OPEC energy crisis with his typical civic earnestness, he had turned off the heat in his apartment.) There, he met his first boyfriend—and an entire adolescence of pent-up puppy love snapped the leash. The young man Tom met was cute, athletic, genuine, loaded with fun and personality; also, he was not very smart, completely indifferent to politics, a casual racist, materialistic, and lacking in real ambition. No matter. The boyfriend, now long dead, was one of Tom's most important teachers. Dating and having sex with him overwhelmed Tom with a feeling of the utter rightness and naturalness of being gay, allowing him, for the first time, *really to be*. The fact that Tom endured, and finally escaped, soul-robbing emotional and sexual deprivation informed all the rest of his work. He acutely understood the tyranny of sodomy laws, for example, as he labored with his colleagues to overthrow them.

Personal acquaintance with oppression (as Tom well understood, he otherwise enjoyed many socio-economic advantages) underpinned Tom's devotion to civil liberties in general. As his future mentor Barbara Shack put it: "Tom told me he thought being gay was a gift. It gave him the ability to understand what it was like to be an outsider, because he was one."

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The organization that Tom joined sponsored a visit by Howard Brown, M.D., New York City's prominent former health services administrator, who had just co-founded the National Gay Task Force. Dr. Brown, in a widely-reported 1973 speech to medical colleagues, announced he was gay to help "in some way to free future generations of homosexuals from the agony of secrecy and the constant need to hide."³ He traveled the country with his message, changing many lives along the way before dying of a heart attack at age fifty.

As Tom recalled, Dr. Brown

was a very daring, thoughtful person, and especially important to me because he was accomplished, smart, and very conscientious. For someone of his prominence to risk his career was very touching. He gave a brilliant speech. I remember swooning over it, because it contained all the sorts of things I yearned for: a sense of conscience, a sense of commitment, a sense of daring, in addition to erudition and intellect and humor. He was a rousing and passionate and artic-

³ Howard Brown, M.D., *Familiar Faces, Hidden Lives: The Story of Homosexual Men in America Today* 23 (1976).

ulate speaker. He also struck me as very much the smart New Yorker. Since I knew by this time that I was going to go to law school in New York, it was a relief and pleasure to see that I might integrate this new part of my life into my life there. He talked about his own experiences, his successful career as a physician, his achieving a public position, his struggles and his decision to be openly gay, and how it had been covered on the front page of the *New York Times*. All of which seemed not only very brave, but very extraordinary at the time. He then wished upon us courage and integrity. It was the best speech I'd ever heard.

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While at NYU Law School, Tom worked as a research assistant for E. Carrington Boggan, general counsel of the newly-formed Lambda Legal Defense and Education Fund. A memo Tom wrote for Boggan regarding a gay client's expulsion from the armed forces accompanied Tom's application to the Arthur Garfield Hays Civil Liberties Program. This submission impressed Professor Dorsen, director of the program. Tom became a Hays Fellow, and Dorsen became Tom's most influential mentor. As ACLU president, Dorsen was well placed to launch Tom's career as a great civil libertarian. And when visionary members of Lesbian & Gay Law Students successfully proposed to the faculty a seminar on the legal aspects of gay rights,⁴ Dorsen skillfully promoted Stoddard for the teaching appointment. In the spring of 1981, Tom began teaching "Sexuality and the Law."⁵ "Norman had a lot to do with it," Stoddard would remember, "and it shows the importance of a mentor. Norman got me things that I otherwise couldn't get on my own."

⁴ Three students proposed the course to the faculty "to fill what we perceive to be a large gap in the present curriculum." Letter from Mark Aguiar, Ronald Languedoc, & Steven Rosen to Professor Graham Hughes, Chairperson, New York University School of Law Curriculum Committee 1 (Feb. 24, 1980) (on file with author).

⁵ The seminar was originally designated "Sexuality and the Law," to accommodate students' concerns about a reference to "sexual orientation" on their transcripts. Professor Stoddard changed the name to "Sexual Orientation and the Law" in 1995. I estimate that more than 250 students studied this subject with Professor Stoddard during the 16 years that he taught the seminar. Some have become professional gay rights attorneys, and many others have performed *pro bono* work on behalf of lesbians and gay men. For a discussion of the significance of such courses both to law schools and society at large, see Jane S. Schacter, *Poised at the Threshold: Sexual Orientation, Law, and the Law School Curriculum in the Nineties*, 92 Mich. L. Rev. 1910, 1925-28 (1994) (reviewing *Lesbians, Gay Men, and the Law* (William B. Rubenstein ed., 1993)).

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Dorsen introduced Tom to two other mentors. As a Hays Fellow, Tom interned for Kenneth P. Norwick, legislative director of the New York Civil Liberties Union (NYCLU),⁶ and joined in the intense national effort to prevent the reinstatement of capital punishment after *Gregg v. Georgia*.⁷ When Tom graduated, Norwick offered him *two* jobs: NYCLU legislative counsel and associate at Norwick's firm, whose literary-property and corporate practice included challenging clients like *SCREW* magazine. The apprenticeship immersed Tom in both legislative lawyering and litigation, a rare combination for a young public interest lawyer. Norwick also taught a future master the basics of a crucial skill: how to promote civil liberties through the press. Norwick could later, with some justification, remark: "Do I know Tom Stoddard? I *invented* Tom Stoddard!"

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Norwick's assistant and successor in Albany was Barbara Shack, a longtime NYCLU activist. A remarkable lobbyist, Barbara taught Tom the craft as they sought to defend the Bill of Rights against every imaginable legislative assault. For example, they successfully opposed the erosion of abortion rights, repelled restrictions on unpopular religious "cults," and scuttled fleets of censorship schemes. And every year, after Governors Carey and Cuomo vetoed death penalty bills, Barbara and Tom led the tough battles to prevent a legislative override.

"Although she's not a lawyer, Barbara taught me more about being a lawyer and an advocate than any other person," Tom recalled.

I remember one wonderful moment when Barbara and I were in an elevator in the Capitol with Senator Padavan, the state senate's Mr. Moral Majority, who once accused us of being "libertines," and Senator Volker, the principal supporter and prime sponsor in the senate of the death penalty bill every year. Barbara turned to Volker, a very courtly, nice man, and said "Senator, when's the bill coming up?" The senator mentioned some dates and talked about it as he would to his own colleague. Padavan said to Volker, "Why are you talking to *her*? She's the enemy!" And Volker said, "Because she's my friend." I remember that as an example of why Barbara was so effective. She didn't treat anybody as untouchable or as the enemy. She would just talk to anybody in the same direct, fearless way, being courteous but never submitting. That got her very far.

⁶ The New York Civil Liberties Union is a state affiliate of the American Civil Liberties Union.

⁷ 428 U.S. 123 (1976).

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All these were lessons that prepared Tom for his most famous public accomplishments. In 1986, in a superlative exercise of legislative lawyering, he helped draft and lobby into law New York City's long delayed gay rights ordinance. From 1986 to 1992, in the face of *Bowers v. Hardwick*⁸ and the most harrowing years of the AIDS epidemic, Tom dynamically led Lambda Legal Defense & Education Fund as its lawyers stemmed the tide of AIDS discrimination, even while expanding the organization's gay rights advocacy. For that intense, perilous, heady season, Stoddard became the most prominent advocate for the rights of gay people and people with HIV. From the pages of the *New York Times*, from the sets of *Donahue* and *Larry King Live*, Tom instructed the nation.

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Yet in the full stride of his career, Tom still had not learned the most important thing. Then, in 1988, at a Lambda fundraiser, he met Walter Rieman, an NYU Law School graduate⁹ and litigator, who is now Tom's surviving spouse. Love at first sight deepened over the years; the mutual devotion of these lovers, consecrated in a 1993 wedding, proved anew the observation that "[i]t is through the family that we inculcate and pass down many of our most cherished values, moral and cultural."¹⁰

Tom publicly described the personal lesson of his relationship with Walter, and its political meaning, as follows:

Our movement is based upon a very simple notion, the right to love. It's also based, I think, upon a somewhat broader, more demanding notion: the duty to love. The idea that we all have a duty to love is not a new one. Many men and women in every culture have reminded us of this over the centuries, but I, like many others, was a slow learner, and it took me forty years to learn *my* duty to love.

⁸ 478 U.S. 18 (1986).

⁹ The two never met at NYU Law School, Walter having enrolled in a course taught by Professor Ronald Dworkin during the time slot in which he might otherwise have studied with Tom.

¹⁰ *Moore v. City of East Cleveland*, 431 U.S. 494, 503-04 (1977). Nor could anyone with a modicum of human understanding fail to see that an exemplary union, such as Tom and Walter's, was in its moral essence precisely of the sort that "have played a critical role in the culture and traditions of the Nation by cultivating and transmitting shared ideals and beliefs [and which] thereby foster diversity and act as critical buffers between the individual and the power of the State." *Roberts v. United States Jaycees*, 468 U.S. 609, 618-19 (1984). For an example, however, of a particularly ahistorical, reductive, and morally purlblind view to the contrary, see *Shahar v. Bowers*, 114 F.3d 1097, 1114-15 (11th Cir. 1997) (en banc) (Tjoflat, J., concurring).

Walter taught me that, and it meant not only the duty to love him, but the duty to love everyone. The duty to love those with whom we disagree, the duty to love even those we dislike. We need to embrace everyone in the world and give every person elementary respect, regardless of who he or she is. That's the only way we will prevail. This movement, if it keeps that in mind, *will* prevail, simply by being better than anyone else, by teaching by example.¹¹

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We saw in Tom his teachers. We look now to his students.

¹¹ Thomas B. Stoddard, Remarks on the Occasion of Accepting Lambda Legal Defense & Education Fund's Liberty Award (May 24, 1993) (audio tape on file with author).