

Foreword

A Man for All Seasons: A Remembrance of Geoffrey C. Hazard

DAVID L. FAIGMAN[†]

[Sir Thomas] More . . . is a man of an angel's wit and singular learning. I know not his fellow. For where is the man of that gentleness, lowliness and affability? And, as time requireth, a man of marvelous mirth and pastimes, and sometime of as sad gravity. A man for all seasons.

—Robert Whittington (A contemporary of More)¹

Geoffrey Cornell Hazard, Jr. was very much a man of his time and, rather more so, a man for all seasons. In his time, he helped define “the law of lawyering” and, in many respects, his gravitas as a scholar lent the subject of professional ethics the weight it enjoys today. He led the prestigious American Law Institute from 1984 to 1999, and his reputation helped solidify the prestige of that organization. He taught at many of the top law schools in the nation, moving east from Berkeley to Chicago, then further east to Yale and then Penn, but finally returning west for the last decade of his career at UC Hastings in San Francisco. It was at UC Hastings that I got to know Geoff and came to appreciate the person behind the legend. What I learned was that although he was someone that helped define his own time, he was truly a man for the ages.

Geoff was one of the most influential scholars of his time, writing, teaching, lecturing, and commenting on a wide variety of subjects, but most prolifically in the areas of civil procedure and professional ethics. He was internationally renowned in civil procedure, and regularly contributed, both nationally and internationally, to the writing or reforming of codes of procedure. His contributions in professional ethics were even more fundamental. Indeed,

[†] Chancellor & Dean, John F. Digardi Distinguished Professor of Law, UC Hastings College of the Law.

1. Marvin O'Connell, *A Man for All Seasons: An Historian's Demur*, CATH. EDUC. RESOURCE CTR., <https://www.catholiceducation.org/en/controversy/politics-and-the-church/a-man-for-all-seasons-an-historian-s-demur.html> (last visited Apr. 16, 2019) (internal quotation marks omitted) (citing and quoting THE VULGARIA OF JOHN STANBRIDGE AND THE VULGARIA OF ROBERT WHITTINTON, at xxviii (Beatrice White ed., 1932)).

along with a bare handful of other scholars, he largely created and defined the field.

But Geoff's intellectual breadth and depth went well beyond these two subjects. He had an encyclopedic knowledge of legal history, with a profound grip of the details of a wide number of legal subjects. He was, I can say without fear of over-statement, a Renaissance man. Indeed, his broad knowledge of subject areas, his gentlemanly demeanor, and his genuine curiosity about all matter of things, put him in the same class as many of the great intellects in American legal history. Indeed, Geoff would have been right at home having dinner with such greats as Thomas Jefferson, Oliver Wendell Holmes, and Benjamin Cardozo.

For me to really get to know Geoff, it took co-teaching with him. We co-taught a class called "Introduction to American Law," which was a specialty class designed for students in the one-year Masters of Studies in Law (MSL) program. In retrospect, it was also an ideal class for me to appreciate the extraordinary person that Geoffrey Hazard was. His intellect was formidable; his knowledge of legal doctrine was exhaustive; his command of the classroom complete; and his respect and admiration for the students and the subject total and sincere. Observing Geoff teach a class devoted to the full fabric of American law, as he approached the end of his career, was a unique honor for me, the sort of honor I am sure will never be repeated. He was a master at his craft, and I sometimes just sat back and marveled at his virtuosity.

To appreciate Geoff in this context, I need to give a little background on how this class came about, and on how I came to teach it by his side. About ten years ago now, I was asked to oversee the formalization of a partnership between the University of California San Francisco (UCSF) and UC Hastings. Early on, we defined the three areas of natural collaboration as Education, Research, and Service. In filling in the content for these three areas, I had the benefit of numerous conversations with colleagues and, especially so, with Geoff.

An area that Geoff was particularly interested in was the educational component of the partnership. He very much believed in the value of interdisciplinary education and championed the idea that the health science professionals at UCSF could benefit from a fair dose of legal training. UCSF, more than most centers of training in the health sciences, is devoted to policy impacts and the skills and knowledge-base offered in the law school curriculum would complement their health science expertise.

UC Hastings, therefore, decided to join the many other law schools over the last decade that have created a one-year masters program—the Masters of Studies in Law (MSL)—to provide training in legal problem solving and the processes of the law. The UC Hastings program originated out of the partnership

with UCSF and was tailored at the start for students in the STEM disciplines coming from UCSF.²

Geoff was an enthusiastic supporter of this initiative and, from the start, contributed greatly to the design of the curriculum. In particular, Geoff insisted that a new course needed to be developed, a broad introduction to American law, that was exclusively designed for non-JD masters students. And then, fully consonant with Geoff's approach to higher education, he volunteered to teach the class, despite already shouldering a full teaching load.

It was at this time that Academic Dean Shauna Marshall approached me and asked whether I would co-teach the class, because Geoff had so much already on his plate. I don't remember my reaction at the time, but my agreeing to do so was one of the smartest professional decisions I ever made.

Geoff was a whirlwind of intellectual energy. He immediately started collecting materials that he would pass on to me—almost daily in those early days—for inclusion in the course-text. They ranged from edited excerpts of De Tocqueville to Cardozo's ruminations on judging. Geoff ultimately designed the course in a way that neatly captured his brilliance. He thought the best way to introduce American law to these masters students would be through the great cases in the traditional law school curriculum. Hence, the course materials were divided into the classical subject areas of contracts, torts, civil procedure, and so forth. The text contained excerpts from the most celebrated cases in those areas—such as *Palsgraf v. Long Island Railroad Co.*³ in torts and *Hadley v. Baxendale*⁴ in contracts. These cases, however, operated as anchors for the other cases and articles that developed the core lessons to be imparted.

The brilliance of this strategy—indeed, the brilliance of Geoff's insightfulness about the law—became evident the first year we taught the class. He had constructed the class around the big ideas of the law; those cases served to create an intellectual latticework on which Geoff would hang innumerable lessons of legal thinking and insights. But they did more too. Geoff's approach worked on at least three completely different levels of intellectual discourse.

First, as a substantive law class, it gave the students a rigorous education into critical legal thinking and the procedures and processes of the law. It was anything but easygoing for these very talented health sciences students. (The inaugural class had, among other stellar students, a neurosurgeon, a pediatric endocrinologist, and a former chief medical officer.) More than one of those students told me that law school generally, and the range of material presented in our class, rivaled the difficulty of any class they had had in medical school. Geoff sought to impart a couple of basic lessons through the cases and materials and his lectures. Foremost, he wanted the students to understand the

2. Since its inception, the UC Hastings MSL has been broadened to include students from business and tech backgrounds, as well as those that wish to tailor the degree to their own interests.

3. 162 N.E. 99 (N.Y. Ct. App. 1928).

4. 156 Eng. Rep. 145 (Ex. Ch. 1854).

development of legal doctrine through time, along with an appreciation for the fact that those doctrines sought to bring about particular societal outcomes. Geoff never separated a rule from the objective or consequence of that rule. Moreover, he saw the law as having to be responsive to changing social conditions, but ever mindful that legal decisions affected those very social conditions. In response to an ABA interview question about his favorite subjects to teach, Geoff noted that:

I've always been interested in the normative setting of law. That is, law consists of formal rules and formal procedures, but that's not by a long shot what it is that influences how people behave. So I've always thought that attention to the ambient situation in which legal problems arise is very important, and that ambient situation is importantly determined by what the prevailing moral sentiment is. As Holmes said, "The felt necessities of the time."⁵

Another lesson that Geoff was always mindful about was ensuring that the students appreciated the fundamental connectedness of the first-year subjects we covered. Of course, most law students come to appreciate that, for instance, the fact that Benjamin Cardozo wrote both *Palsgraf* in torts and *MacPherson v. Buick Motor Co.*⁶ in contracts that a common thread might be found between them. Geoff never treated cases in a compartmentalized way and he was simply brilliant in weaving those common threads into a beautiful tapestry.

A second level of intellectual discourse Geoff sought to impart, and to some extent occupying the other end of the pedagogical spectrum of intellectual discourse, was his desire to give these students an education that permitted them to fit in with their J.D. student colleagues. A not insubstantial part of the law school experience is developing a shared culture and common experience with your fellow law students. Beyond the hazing nature of 1L year, law students develop a common vocabulary and knowledge of certain cornerstone ideas and, perhaps more so, an appreciation of the characters that inhabit legal narratives. These ideas run from the complex, such as the division between law and equity in defining causes of action and remedies, to Helen Palsgraf's unfortunate injury due to remote and unforeseeable circumstances. Geoff's materials gave these students a broad introduction into legal discourse, both profound and casual.

Finally, third, and more a product of Geoff's lecture style than the content itself, he brought the human element endemic to the law to life. Geoff was a product of the school of legal realism and often displayed a healthy skepticism about the motivations that lay below legal doctrine. For instance, I remember once sharing an elevator with Geoff and he asked me what class I was on my way to teach. When I told him constitutional law, he smiled and said, "Ah, current events." Geoff was able to bring the human element into class discussion in two fundamental ways. First, he reveled in telling stories about the people

5. *Member Spotlight: An Interview with Prof. Geoffrey Hazard*, A.B.A. BUS. L. TODAY (Sept. 19, 2018), https://www.americanbar.org/groups/business_law/publications/blt/2014/07/member_spotlight/.

6. 111 N.E. 1050 (N.Y. Ct. App. 1916).

behind the cases and how their perspectives, biases, and, often enough, peccadillos, affected the law's development. Second, he had a simple humanity about him, such that every student felt himself or herself a valued contributor to every conversation and each developed a bond of friendship with him.

But Geoff was no "crit." While he well understood the underlying foibles of the human characters that presided over legal processes, he deeply believed in the rule, and the rationality, of the law. Geoff related to, and in many instances embodied, the objective procedural and rule-oriented basis on which the fabric of the law rests. But these procedures and rules are employed by people with predispositions and agendas that pushed and distorted that fabric in a multitude of ways. While Geoff was always realistic, he never descended into cynicism.

When Geoff died, I sent around an email to the UC Hastings community relating this sad news. I was not surprised that this set off an avalanche of reply-all emails that expressed grief and sorrow over his passing. Many of those wrote about their experiences having Geoff as a professor at Chicago, Yale or Penn. They talked of his demanding character in the classroom, but also how his lessons resonated years later in their practices and classrooms. What perhaps struck me most, however, was how many told personal stories of the ways that Geoff had helped them over the years. It seemed that Geoff had become a consigliere for the community and, so far as I could discern, had never turned anyone down when they sought his advice and assistance. Professor Blaine Bookey, for instance, the Co-Legal Director of Hastings' Center for Gender & Refugee Studies (CGRS), shared the following:

What a wonderful man, so generous with his time and expertise. Many may not know, but for the last several years, he has been a lifeline for us at CGRS providing invaluable insight on the thorny ethical issues we encounter providing guidance to thousands of attorneys each year representing asylum seekers. Not knowing me from Eve, Professor Hazard answered every email and phone call from me with graciousness and promptness. And it goes without saying he always had an answer.⁷

I had my own experience with Geoff's willingness to offer counsel and whatever help he could provide. My daughter Sarah is a sociologist who did her graduate work at UCLA. When she was working on her dissertation, she came to me with a problem. She was interested in studying the lawyer/client dynamics of a non-profit immigration clinic in which she had volunteered. Specifically, she hoped to be able to interview both attorneys and their undocumented clients about their respective experiences with the U.S. immigration system, as well as one another. When she sought permission from the non-profit's directors to carry out this research, they raised ethical and privilege concerns. Understandably, they were reluctant to go forward without knowing what the law provided in such cases.

7. Email from Blaine Bookey, Co-Legal Dir., UC Hastings Center for Gender & Refugee Studies, to David Faigman, Dean & Chancellor, UC Hastings (Jan. 11, 2018, 3:41 PM PST) (on file with *Journal*).

Sarah came to me and, of course, being a law professor and her father, she naturally expected that I would know what to do. And I did. I called Geoff.

Geoff agreed to talk with Sarah about her project, which he made time to do the next day. He ended up working with Sarah to fashion her research so that it would be acceptable under the Rules of Professional Responsibility. He gave her a detailed roadmap regarding how to structure her research and then provided feedback on the proposal she wrote to assuage the organization's concerns. He then wrote a letter to the Clinic's Directors offering his opinion that her plan passed muster under the Rules.

When Geoff joined our faculty, he was one of the most influential legal scholars in the country and, for UC Hastings, harkened back to the most famous members of the 65-Club, reminiscent of other great scholars, such as William Prosser, Richard Powell and Louis B. Schwartz (also from Penn), who joined the Hastings faculty after retiring elsewhere. Geoff was a true giant in the law. He was a deeply inspiring teacher, a mentor to many generations of students and faculty, an enormously influential scholar, and a dear friend to so many of us. He was a man for all seasons and I will miss him dearly.