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D'ALEMBERTE: REMEMBER THE NAME THAT'S HARD TO REMEMBER

ARTHUR J. ENGLAND, JR.*

FOR THOSE who believe that lawyering and governmental service are the product of genetics, Talbot "Sandy" D'Alemberte is a case study worth considering. Sandy's uncle was James B. Whitfield, Clerk of the Florida Supreme Court in the late 1800's, and a justice of that court from 1904 to 1943. His grandfather, G. Talbot Whitfield, was Clerk of the Florida Supreme Court from 1915 to 1939. The present Clerk of the Court, Sid White, who has served in that post since 1964, is Sandy's sixth cousin once removed.

For those who believe that lawyering and governmental service are not carried in the blood but environmentally acquired, Sandy also presents an arguable case study. Sandy's grandmother lived on a plot of ground (once known as Waller Park) between the old Florida Capitol and Supreme Court building—a site now occupied by a waterfall and the new Capitol. On her porch, a young Sandy would hear debates in the Florida Legislature through the open windows of the Capitol.

Either theory, or perhaps both, provide an explanation for Sandy's love of lawyering and his bent toward government service. Either or both explain why one cannot contemplate the Florida Constitution without seeing in it the hand of Sandy D'Alemberte. His imprint is most prominent perhaps in its "freedoms" and in its judicial provision, but his fingerprints are everywhere. This is no surprise when one considers that he served as Chairman of the House Judiciary Committee when the present judiciary article of the constitution was formulated, as Chairman of the 1978 Constitutional Revision Commission, and as author of the commentary to the 1968 Constitution which appears in *West's Florida Statutes Annotated*.

Sandy's less visible, but no less important contributions to the rights of Floridians are the result of his lawyering. In defense of a form of judiciary he envisioned for his native state, Sandy acted as chief counsel to the House Select Committee for Impeachment of Certain Justices of the Florida Supreme Court. As a person who had long

* Former law partner of Dean D'Alemberte; Justice, 1975-1981, and Chief Justice, 1978-1980, Supreme Court of Florida.

championed a constitutional right of privacy and eventually saw that right enshrined in the Florida Constitution,¹ he paradoxically brought the lawsuit which produced the most intrusive media access authorization adopted in the United States.²

Yet lawyers who have litigated with Sandy, legislators who have legislated with Sandy, and law partners who have practiced with Sandy will tell you that there is nothing unique in that paradox—that everything about Sandy is paradoxical. Indeed, it would be a mistake for one to believe they understand Sandy, or appreciate his complexity, simply from a study of his public involvement. The man has multiple nongovernmental facets. Among these are Sandy the playwright, Sandy the sports competitor, Sandy the courtroom combatant, and Sandy the “consensus-lator.”

Playwright

Whether as a result of his personal fondness for one of this country's most eclectic personalities, or merely as a result of his fascination with history, Sandy has had a special kinship with Benjamin Franklin. Having read all he could about Franklin, Sandy took pen in hand to feature Ben in an historically grounded drama. Sandy's play was not merely authored; it was actually performed in the early 1970's at the Fine Arts Building on the campus of Florida State University. This author was privileged to attend that performance, which, if memory serves, was a one-time experience for both the author and the play.

Sports Competitor

It would be misleading to say that Sandy enjoys an active sports life. Sports activities for Sandy, like lawsuits and lawmaking, are competitive events whose only rationale is winning. Participation in these events may incidentally be pleasurable, but like his friends the Kennedys, winning is unmistakably the goal. Sandy's regular sports events have included vicious racquetball contests and ball-thumping backyard volleyball games. Those who participated in these events with Sandy merely for fun, including this author, invariably left the playing field not just exhausted but defeated.

1. With Sandy's shove, the 1978 Constitutional Revision Commission proposed the provision on privacy which now appears as FLA. CONST. art. I, § 23.

2. Sandy was counsel to the petitioners in the case which opened Florida's courts to the electronic media. *In re* Petition of Post-Newsweek Stations, Florida, 370 So. 2d 764 (Fla. 1979); *See also id.*, 327 So. 2d 1 (Fla. 1976); *id.*, 337 So. 2d 804 (Fla. 1976); *id.*, 347 So. 2d 404 (Fla. 1977).

Courtroom Combatant

Tenacity and single-mindedness are not apt terms to describe Sandy's approach to litigation. "Genial ferocity" seems more appropriate, but "bull-headedness" comes closer to the mark. I do not mean by these descriptions to disparage Sandy—far from it. Rather, I hope to convey to those unfamiliar with his litigation style Sandy's complete absence of equivocation as to the righteousness of his clients' causes. Two examples will make the point.

As a member of the Florida Supreme Court when Sandy presented the issue of cameras in the courtroom,³ I recall that Sandy advocated media access as an absolute right grounded on the first amendment. An inquiry from the court during oral argument, as to whether the opening of courtrooms to the electronic media was not in reality a discretionary matter for the judiciary rather than an inviolate constitutional prerogative, was met with an unhesitating "no." Sandy's position throughout the proceeding was that the media, as the public's representatives, simply could not be interfered with by the courts, notwithstanding that the electronic media had for over thirty years been barred from courtrooms throughout the country by mere judicial decree.⁴

The same principle was put forward without compromise in another supreme court case, in which Sandy represented a news reporter convicted of contempt for failure to divulge her source for an article which published a synopsis of a sealed presentment returned by a grand jury. In securing a reversal of her conviction, based on the balancing of a reportorial privilege for journalists against the governmental interest sought to be advanced by requiring divulgence of the source, Sandy in oral argument was "reluctant to concede any limitation on [the reporter's] asserted first amendment right to protect confidentiality of sources."⁵

Creative Entrepreneur

Sandy has always been driven toward entrepreneurial endeavors. His acquisition of the company which publishes *Florida Supplement*, the law books which publish select decisions of Florida circuit court judges, is but one of his ventures. Few of Sandy's brainstormings are

3. See *supra* note 2.

4. When the Supreme Court of Florida did open its doors to cameras in the precedent-setting decision which later swept the country, the court did so as a matter of judicial discretion and not as a vindication of the media's first amendment rights. *In re* Petition of Post-Newsweek Stations, Florida, 370 So. 2d 764, 774 (Fla. 1979).

5. *Morgan v. State*, 337 So. 2d 951, 957 (Fla. 1976) (Sundberg, J., concurring).

abandoned; most come to life in a different form. For example, I recall a plan Sandy conceived in the late 1960's to operate hydrofoils as a commuter-type ferry service from south Biscayne Bay to downtown Miami. What better way to beat traffic on South Dixie Highway than to speed across Biscayne Bay in luxurious comfort, drinking orange juice and reading the morning newspaper? That particular project never became a reality as such. Its concept emerged, however, in the late 1970's, when Sandy engaged a student to act as a chauffeur for him and three other lawyers who lived in the suburbs of Miami, using his motor home for travel to and from the office, complete with the morning papers and orange juice.

Consensus-lator

The art of legislating successfully, I am told, is a function of the willingness to compromise. Sandy certainly proved, repeatedly, that he could legislate successfully. His commanding powers to effect consensus are discernable from a number of major laws which came into being as a result of his legislative efforts. Make no mistake, however, that the products of his legislative skills invariably represented no compromise of Sandy's position. His goals were always clear to him, if not always to others, and any consensus legislation which emerged invariably coincided exactly with Sandy's original underlying objective.⁶

Perhaps the best example of Sandy's consensus building to reach a predetermined goal is the adoption of article V of the 1968 Constitution, which streamlined the judicial branch of Florida's government. This is a project which Sandy achieved almost single-handedly. Sandy started with the goal of eliminating Florida's multiple layers of judicial officials. He achieved that goal, despite the fact that it had eluded others, during a brief stint as Chairman of the House Judiciary Committee. Sandy's methodology was simplicity itself. He first identified the indispensable elements of a judiciary article, then aired the issues through public hearings, worked around those who opposed change by obtaining agreement on the indispensable elements, and finally used the public and the press to create a groundswell for a streamlined judiciary resembling his original model.

6. Sandy's objectives were not always achieved, of course. As a newly-elected legislator, he advocated a unicameral legislature for Florida. See D'Alemberte & Fishburne, *The Unicameral Legislature*, 17 U. FLA. L. REV. 355 (1964).

Conclusion

This brief portrait of Talbot D'Alemberte may surprise those who know him as an affable, mild-mannered, easy-going raconteur. I do not mean to suggest that their impression is wrong; it is not. They should know, however, as do those privileged to have been his friend over a span of years, that there is more to the man than his warm smile and easy humor.

While some will know of Sandy from his numerous contributions to the constitutional and legal fabric of the State of Florida, those who know him intimately harbor their most pleasant memories from his eccentricities—writing plays, competing in sports combat, jousting in court, consulting on profit-making schemes, or launching a legislative career with a pithy campaign theme like “remember the name that’s hard to remember.” Fairly frequent 23-to-21 racquetball defeats are less fondly recalled.

