

REFLECTIONS ON MY TIME AT UCLA LAW

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I came to direct the UCLA Communications Law Program in August, 1977. Geoffrey Cowan and Monroe Price co-founded the program in 1972. Geoff directed it the first two years, then went to teach undergraduate communications at UCLA, and engage in the other four things he was doing at the same time, as he has continued to do to this day.

Monroe started many activities at the law school, including the *UCLA-Alaska Law Review* (quite a concept in itself), the Indian project with Carole Goldberg, and other assorted activities that comprised a wing of the law school that we called Monroe, Inc. Monroe would toss five or six balls in the air on a given day and the trick was understanding which ones to run with, which to let drop to the ground. Monroe's departure to become dean of the Cardozo Law School in New York was a big loss for the law school. He was also known for absent-mindedness, such as the apocryphal story that he walked into someone's office and said, "Monroe?," and the person said, "No, I'm Bill, you're Monroe."

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When Geoff Cowan left the program, Tracy Westen took it over and ran it for three years with Molly Larson as his assistant. By the time I got there the program was the best communications law offering in the country with courses, speakers, public interest litigation, and the groundwork for bringing the *Federal Communications Bar Journal* to the school.

I came from a public interest communications law firm in Washington, D.C. Jimmy Carter had recently won the presidency and my mentor headed a new agency, the National Telecommunications and Information Administration, to which he asked me to become general counsel. But if I stayed out of the government, I was in line to argue a major communications case before the Supreme Court, *FCC v. National Citizens Committee for Broadcasting*. It was an appeal by the FCC, the newspaper industry, and the broadcast industry from a ruling in the court of appeals requiring the divestiture of every major newspaper–broadcaster combination in the country. Moving to UCLA Law to prepare and argue the case was perfect. I could teach, run the program, involve students in the case, and get away from Washington.

When I arrived, Dean Warren called me into his office. First things first, he said. Would I come to dinner with two other new professors, Steve Shiffrin and Ted Eisenberg? Of course. And would I come to the Faculty Malibu Beach Party that weekend. Wow, I really was in L.A. Then Geoff Cowan had a “Goodbye Tracy, Hello Charlie” party with the likes of Norman Lear, and who knows who else, welcoming me to the city.

With extensive contacts from eight years in the Washington, D.C., communications bar, I solidified the move of the bar journal, renamed the *Federal Communications Law Journal* to be edited by UCLA law students. I was the faculty adviser, a role I greatly enjoyed. I offered a paper in lieu of final for my Communications Law course, so students could get credit for their work and publish it in the FCLJ if it was good enough. And the opportunity to edit a journal also brought new students to the Communications Law Program. They were a fun, tight-knit cadre of students highly interested in the field.

I thought I would stay for only a year or two. But it was interesting, I loved L.A., my wife and I started a family. And the NTIA, a part of the Commerce Department, seemed a bit bureaucratic and had a general counsel in place for well over a year before I could even consider going back. We

stayed for one, two, three years, and decided the way to live was to act like we would be there forever. Then Ronald Reagan won the presidency, so no one was going to bring me back to the government, nor was I particularly interested in returning. All in all, we lasted thirteen years in Los Angeles before returning to D.C.

The Communications Law Program consisted of the courses in Communications Law, which were unusual in that day, a bevy of speakers including Chief Judge David Bazelon of the District of Columbia Circuit, Frank Mankiewicz, then president of NPR, and actor George Takei. We held a series of biennial symposia on satellite law, something at the cutting edge of its day, clinical communications public interest litigation, and externships, where students could get a quarter's worth of credit by working for FCC commissioners or the like. We placed students in the FCC chairman's office, as well as other commissioners' offices in the FCC and FTC, the Directors Guild, Association of American Publishers, American Film Institute, public interest law firms, House subcommittees, the National Association of Broadcasters, NTIA, four judges of the U.S. Court of Appeals, and even the International Institute of Communications in London, England. UCLA Law was well known to all communications practitioners, and I think without much question was regarded as the best place to study if one wanted to specialize in that field.

The NCCB case on newspaper–broadcast cross-ownership was extremely high profile. Students helped in the research, and I held a moot court at the law school on the case before arguing it in January 1978. Justices Karst and Shiffrin were particularly sharp in their questioning. The critique was invaluable, though the outcome was an inevitable 8–0 reversal, upholding the FCC's original rules which allowed for grandfathering existing cross-ownerships unless they were actual monopolies.

We were to get a second Supreme Court case, *Community Television of Southern California v. Gottfried*. I won't go into the details, but a local Los Angeles attorney, Abe Gottfried, literally made a federal case out of the local public broadcaster's refusal to air the captioned ABC Newscast offered to it by PBS, and misled him as to the reasons for not doing so. Here again students were invaluable in their aid in the briefing, and Angela Campbell, FCLJ editor in chief, top aide in the briefing, and now a clinical professor at Georgetown Law, even came back with me for the argument.

When we arrived at the Supreme Court for the argument, the Court gallery was packed. All those people to hear us? No, the first case was the Bob Jones University case which challenged whether the U.S. Government could refuse tax exemption to an organization openly discriminatory against Blacks. When that argument concluded, and they called our case, the gallery emptied.

Other litigation proceeded to encourage more access to the airwaves for minorities and women. One case we considered and worked on but did not bring was particularly interesting. George Takei, Mr. Sulu on *Star Trek*, was a candidate for the L.A. City Council. Under the FCC's equal opportunity rules for political broadcasting, a local station that aired one candidate had to give equal time to his or her opponents. This meant that the local station that had the rights to *Star Trek* reruns would not air the episodes, depriving Takei and his fellow actors of their residuals. What particularly galled him was that the episode they withheld was one where he was on a planet that made him get progressively crazier and crazier. Hardly a campaign asset. We were going to propose that the rule should only apply when the candidate's appearance was as himself, not a fictional character. It would have application as well to Ronald Reagan, who was running that year for president, when he appeared in *Bedtime for Bonzo* or as the Gipper. Unfortunately the student work on that one was too deficient to edit and submit in time to be relevant.

Creating symposia was one of the highlights of our activities. In 1979 we held one on "The Foreseeable Future of Television Networks." Speakers included Norman Lear, FCC Chairman Charles Ferris and Richard Frank, president of TV distribution for Paramount Pictures.

In 1981, with inspiration from Monroe Price, the active participation of my assistant Doris Davis and many students, and support from the National Endowment for the Humanities, we created "Privacy and Democracy in 1984," a look into the future. Davis thought that speeches from humanists were fine, but the program needed more, and convinced me to engage an improv group called the Groundlings to perform in between sessions. We spent time briefing them with materials and discussions as to where the technology was headed, and it paid off. Led by Phil Hartman (later of *Saturday Night Live*), the group performed songs such as "I'm Just an Analog Man in a Digital World," and had a family scene where

the father breaks down to his wife, “Marge, I’m afraid I just can’t provide enough data for the family.”

In 1981 we also convened a symposium on the Regulation and Deregulation of the New Video Technologies. Appearing were FCC commissioners Tyrone Brown and Anne Jones, former FCC Chairman Richard Wiley, Congressman Al Swift, NTIA Administrator Henry Geller and various industry and public interest leaders.

We went on to hold a series of symposia every two years on satellite law. This came about at the urgings of my best student during my thirteen years at UCLA, Martin Rothblatt. A single parent of a mixed-race child, and working part-time at Hughes Aircraft, Martin still had time to ace his courses and exhort me to do more in satellite law. I gave him independent study time to help devise and put together readings for the first symposium in 1981, and we held two more after that.

After graduation, Rothblatt went to Covington & Burling in Washington, D.C., and worked for some satellite clients. Before turning thirty, Rothblatt was president and CEO of Geostar. Subsequently he formed his own firm and helped a man named Rene Anselmo start PanAmSat, the first competitor to Intelsat that eventually sold for \$3B, all from a plan he had concocted while in law school. He then (maybe not in exact order) conceived of direct broadcast satellites and started CD Radio, which is now SiriusXM, married and had three more children, got a Ph.D. in bioethics, changed sexes and became Martine, found out that her daughter had a devastating pulmonary disease for which pharmaceutical companies were not willing to research a cure because it was too rare, researched cures on her own enough to craft a request to crowd-source a cure, found one and saved her daughter’s life, formed a company called United Therapeutics, went public with the company, and in 2014 was the highest paid female CEO in the country. Her latest book, *Virtually Human*, looks at cyber-consciousness: extending life by transferring one’s consciousness to a computer. I was honored to present the UCLA Alumna of the Year award to her in 2014, pointing out that her entire life consisted of crossing boundaries in space, race, gender, business, and even life.

Among the course offerings was a seminar that engaged the students in a comprehensive rewrite of the Communications Act of 1934. In the spring 1978 students prepared papers in different areas of the extensive law,

material that was part of House Communications Subcommittee Chairman Lionel Van Deerlin's rewrite activity. Congressman Henry Waxman, a member of the subcommittee and UCLA Law alumnus, conducted field hearings at the law school on the topic.

Another area of activity was to provide legal advice and support for the League of Women Voters of California, who sponsored statewide debates on gubernatorial candidates Jerry Brown and Evelle Younger.

I kept teaching a seminar in the program through 1989, but in 1985 I left as director, bringing in Daniel Brenner as my successor. Brenner required that the position be on the tenure track. It had always been an adjunct position, a fact I was quite happy with. When I attended my first faculty meeting, I learned that I had no vote as an adjunct. To my delight, that was the last faculty meeting I attended. Ultimately, placing the position on the tenure track led to the demise of the program. In a close and controversial vote a few years later, Brenner did not gain tenure. I think the faculty saw the rare opening of a tenure track position as too alluring to them to bring in another traditional professor. This was their most valuable currency, and they did not want it going to an odd backwater position. With Brenner's departure, the program was eventually dissolved — the editing of the FCLJ went to the University of Indiana, public interest litigation was on the wane, and they decided that entertainment law was more in the crosshairs of UCLA tradition. This was in the mid-1990s, the early days of the digital revolution.

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