UCLA LAW REMINISCENCES

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If you want to keep your memories, you first have to live them.

— Bob Dylan

We did.
We revisit life's joys when we tell of them.

I recall Haines Hall 39: our orientation. We, the class of '67, were uneasy at what lay before us. Our anxiety was undisturbed when the assistant dean gave us an all too brief welcome informing us that the assignments were posted by the admissions office. My fear turned to terror. The level of my sophistication was evidenced by the fact that after I read the first assignment in Civil Procedure I wondered how could it be that nearly all the case authors had first names that began with "J"?

A digression: If there is a heaven, it will mirror UCLA in the '60s. My memory may fade, but my affection for the school and those three wonderful years only grows with time.

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From ’64 to ’67 the law school was in change and so was society. There were but three classrooms all opening into the main marble hallway extending from the school’s entrance to a large glass wall at the opposing end. Also exiting into that hallway was one of the University’s wonders: the men’s room and its row of urinals that would make Rodin jealous. Since the class was nearly all male, few lamented that women would not be privy to the sculpture. The library was a comfy little place with a bank of study carrels in the stacks on the west.

End of digression.

Our class consisted of slightly in excess of 300 white young men from campuses across the country, three women, one Asian, one Hispanic and one African American.[1] Our senior citizen was a 55-year-old chicken farmer from Riverside who commuted daily to school. We, like Gaul, were divided into three parts — alphabetically. I was in the third section with men who became and remain dear friends. This womb would birth a law firm that would first violate then vindicate legal advertising, future chief counsel to Disney and Sony, the leading land developer of Orange County, an L.A. district attorney, a state senator, and a bevy of lawyers who would lead the major firms in Los Angeles, champion civil rights, and find fame in the courtroom; a few even became jurists. We had one classmate who, following midterms, dropped out only to become the president of the Canary Islands Surfers Association. Who knew?

Though we would help shape the law of the state and nation, our concerns lay with understanding what Bernie Jacobs was talking about when we were enfeoffed. Don Hagmann drew a flat line of chalk nearly across the greenboard which, like a rocket, vertically ascended to the ceiling to demonstrate the learning curve for Civil Procedure; Bill Cohen would dazzle us with his questions and genius while his colleague in Torts, Edgar Jones, fresh from T.V.’s *Day in Court,* would engage in an equal but very different obfuscation. Leon Letwin unleashed us on the library to look for “answers.” Feverishly we would, like children on a scavenger hunt, search for the *precise case* only to discover that it was about the journey, not the destination.

[1] I have been privileged to greet the entering classes of the 21st Century. They reflect the ethnic, religious, gender and racial diversity of our country. We have come a long way.

Professor James (Sunny Jim) Sumner was special, he was physically imposing; a lieutenant in the Army during World War II, he was a South Carolina gentleman whose speech and manner were all Shelby Foote. He regaled us with his war stories, confused us with his drawl and kept us sweating during his questions. Contracts: the offer, the acceptance, consideration, hawk's beaks and "third party beneficiaries," which he pronounced with a Southern flair. I fell victim to him when the subject was "quantum meruit." He grilled me on fair value and quasi-contract. I replied while repeatedly mispronouncing "quantum mairuit." He took great delight in my torture of the word. Suddenly, he shot his steely glance at me asking, "Mistuh Perren, how do you spell that?" I rejoined, "Oh, something like thud potty beneficiuairy." A silence that seemed eternal was shattered by the roar of laughter coming from all quarters — including the lectern. I was silent. We learned and we had a great time doing so.

Many years later, following my appointment to the trial bench, I was watching the Bruins from the press box at the Rose Bowl. I was seated next to Professor Murray Schwartz who, for reasons I will never understand, remembered me. We started to chat; I started to sweat. Our conversation became informal and cordial. Never, however, was I able to address him as Murray. He was, and will forever remain, Professor Schwartz.

The reverence started with a discussion of intoxication, diminished capacity, and insanity. I was seated on the left of the classroom about midway up. His eyes caught mine. "What did they have in common?" he asked. I stammered but no words came out. He asked again. My memory is vague; all I recall is that my life and career were headed over a cliff. Somehow the word "choice" crept from my lips. A hush fell over the class. I recall the curve of a smile on the professor's lip as he pressed the issue. We were off and running: what is the role of the criminal law, what is its role in a free and ordered society, and why and how should we punish? At that moment I discovered myself and my calling.

Included in the first year was competition for moot court. I prided myself on my skill as a speaker. Teamed with a classmate who was very good, I knew we had this under control. We made our argument to a student panel from moot court. It was then I learned a lesson I carry to this day: there is a difference between the orator and the skilled lawyer: the former announces, the latter speaks and educates. I still see the presiding judge. The issue concerned

implied warranties on the private sale of a car. The judge asked why we would imply such warranties on a private transaction. A simple question. I blew it — but with style. It is about the power of your logic, not the power of your voice.

In 1964 Roger Traynor had become Chief Justice of California, succeeding Phil Gibson. The Court was considered the finest in the land and led the way in the burgeoning areas of products liability and criminal due process. The Warren Court was in full flower: *Gideon* had been decided the year before, *Miranda* was on the horizon and the Fourth Amendment would soon be in play while Douglas's "penumbra" lay just around the corner. The Freedom Rides had begun in '61, Schwerner, Chaney, and Goodman had been murdered that summer and the March to Selma would soon follow. "Civil Rights" was not just a classroom topic. We didn't know it then but, as Pete Seeger said, "Wasn't That a Time?"

The Law School Mantra: In the first year you were scared to death, in the second year you were worked to death and in the third year you were bored to death.

We pretty well knew after the first year those who were likely to make law review. There were few surprises. The reward: endless hours of writing and polishing notes and comments in addition to the studies that confronted the rest of us.

Our section was blessed with Professor Jesse Dukeminier. What a kind, gentle and wonderful man and teacher. Each class he would somehow squeeze himself into the intersection of the chalkboard and the wall only to emerge with a great question and a dusty suit. And then it happened:

> No interest in property is valid unless it vests not later than twenty-one years, plus the period of gestation, after some life or lives in being which exist at the time of the creation of the interest.

What? Metaphysical claptrap. Who needs to understand it?[2]

[2] I was appointed to the Bench in 1983. Shortly thereafter I was confronted with a dispute over title to a parking lot. The issues concerned "possibility of reverter," "fees on condition subsequent" and "the rule against perpetuities." I was so proud of how I resolved this that I sent my Memorandum of Opinion to the professor. He replied that I had done a nice job in articulating my reasoning over some twenty pages. He asked if counsel had thought to consider Civil Code § "xxxx." (They had not.) In a brief section it resolved the whole dispute. He was very kind in his letter noting that he was the author of that section.

He made it fun . . . kind of. Recall that Professor Dukeminier had written large portions of the property law of Kentucky and California.

Our final exam included the following question (I paraphrase): Assume you land on Mars and must develop a principle for inheritance and gifting, what would the core principles be? What a relief not to decide if A, B or C prevailed.

I recall that there was a series of performances at Schoenberg Hall nominally entitled, "The International Steamed Spring Vegetable Pie." They were very Man Ray and "Dada." I recall one in which an 8mm film was shown on the bare back of a woman. It was so very "'60s," an eponymous title for a generation. As I watched, my vision was slightly obscured by a man holding an open black umbrella from which hung pieces of fruit: "The Duke."

Professor David Mellinkoff taught us Commercial Transactions. The class was sandwiched between construction of the law school addition and the advent of "U.C.C. Bingo." It proved to be an insurmountable challenge even for the master of "The Language of the Law." The construction was immediately adjacent to the classroom. Jackhammers raged, heavy equipment roared and Professor Mellinkoff could not be heard. In desperation he attempted to write his portion of the Socratic dialogue on the chalkboard. Plato would not have learned under these circumstances. The subject consisted of a never-ending potpourri of code sections. The class was energized when Bingo cards bearing the code sections in the obligatory ranks and files were sold by some enterprising classmates. The rules: first, the code section had to be stated by the Professor. This led to some interesting responses by classmates who recited inappropriate sections in the hope that the professor would repeat them. Mellinkoff caught on. The second rule: whoever "won" had to stand and announce "Bingo," proceed to the lectern and show the card. A check made payable "To Order or to Bearer" was the prize and was presented to the winner with the tacit blessing of our teacher.

By the third year most of the class had found the jobs they would take upon graduation. I also had a job waiting: as an undergrad, I had been commissioned a lieutenant in the Army Reserve — accompanied by a three-year deferment to attend law school. My classmates were working part time. I was performing in the Musical Comedy Workshop at UCLA and had been cast in "The Short and Turbulent Reign of Roger Ginsberg,"

an original musical composed by John Rubenstein, a student, who would receive a Tony for "Pippin" five years later.

We graduated June 14, 1967. There were two ceremonies: the first was at Royce Hall solely for the law school graduates; the second was a combined graduation at Pauley Pavilion — for the professional schools. Our irreverence persisted. Prior to declaring us doctors, dentists, and lawyers we had been asked not to throw our mortar boards in the air; to no one's surprise we did not heed the admonition. Our Bar Review courses commenced the next day. We adjourned to El Toril.

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