SECTION 3

UCLA LAW PERSONAL REMINISCENCES

THE UCLA LAW SCHOOL —

Reminiscences from Its Second Decade

NORMAN ABRAMS*

I.

The UCLA Law School was founded in 1949. I, along with several others, joined the faculty in the summer of 1959, just as the school's second decade began. It was still a very small school with a faculty of twelve (prior to our arrival), but it was already on its way to becoming the newest major law school in the country. In the almost six decades since, the school has undergone remarkable changes — in number of faculty, the physical plant, the curriculum, the size and makeup of the student body, the number and kinds of programs, projects and centers, and above all else, in its stature as one of the top-ranked law schools in the country. But some things have not changed.

I arrived in August, along with three other new faculty (Bill Warren, Bob Jordan, and Bill Cohen). We referred to ourselves as the "class" of '59. Herb Morris also effectively joined the law school that year. (He had been a junior member of the Philosophy Department faculty doing some teaching

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in the law school, but around that time he began to make the law school his primary academic home.) The core faculty then was a mixture of some distinguished middle and senior faculty enticed from other institutions and a couple of very junior academics at the beginning of their teaching careers.

In its first decade, the school had suffered from some internal problems — culminating in a successful rebellion by the faculty against the then dean; this period of turmoil caused some faculty to leave and, overall, made the law school a somewhat less attractive place for new faculty than it might otherwise have been. By the time the class of '59 arrived, however, the internal problems had all been resolved, and a new interim dean, Dick Maxwell, had been appointed, soon to be confirmed as dean. Our "class" was the first set of appointments entirely post-turmoil, and probably the largest number of new hires in a single year to that point. The future of the school was very bright; its trajectory upward and without limit. And that has been the situation ever since.

I mention those early internal problems, but forgo developing the details. While the fact of that early turmoil helps to explain certain characteristics of the law school, the specific details are not important. (It is also the case that I have no firsthand knowledge of the matter; I only knew of it through the lunchtime stories of my early colleagues.) This history, I believe, contributed to shaping the legal/political structures governing the internal operations of the school, and also to its culture — large impacts on the character of the school that have continued ever since.

What were these impacts? First, most law schools during that era functioned under a strong dean system. Faculty democracy tended to be very limited. The effect of that early history, by the time the class of '59 arrived, was to reverse the then-common relationship between dean and faculty. Ours was a faculty for which faculty democracy was an important value; accordingly, the faculty democratically resolved most issues of academic policy and, often, many of the implementing details. Of course, it is cumbersome to have the faculty trying to exercise a large amount of essentially executive authority, and over the years, the faculty has learned to delegate some of this authority, but it is fair to say that faculty democracy is still one of the strengths of the school.

Even more importantly, out of that period of turmoil, civility grew as a faculty value; a very strong sense of a shared community and getting along

with one's colleagues also became and have remained hallmarks of the school. This is not the case at many law schools or in academic departments generally. There is an impersonal, everybody-going-their-own way quality at many schools, and some actually descend into periods of backbiting, jealousies, and extreme conflict. With one or two minor lapses, our faculty has managed to avoid such internal conflicts, and we have, I believe, a well-deserved strong reputation for being a positive community of scholars and a very special place to hang one's academic hat. We read and comment on each other's scholarly papers. We collaborate in joint work. We respect each other — all of this despite the fact that we have grown to be a diverse faculty, with many differences among ourselves, and with, for example, political views that span the spectrum. The traditions and culture of community have been handed down from senior to junior faculty now through a number of generations. It is a character trait in which we justly take pride.

II.

During the early years of the '60s decade, we hired new faculty slowly, and consequently, remained for some time a small but dedicated band. Small size had consequences: it meant, for example, that faculty meetings were not large gatherings and, with the exception of admissions and faculty hiring committees, we mainly functioned as a committee of the whole.

Faculty meetings were memorable, though. One of the first important issues addressed after I joined the faculty was whether to continue to have fixed and required courses in the second year of the three-year law school curriculum — an issue that seems almost quaint today, but it loomed large at the time. There was little disagreement about the first-year curriculum. The courses were all basic, important as foundational courses, and traditionally required and taught in the first year — courses which included Contracts, Torts, Property, and Criminal Law. The second-year required courses included Business Associations, Evidence, and Constitutional Law. Were these courses important enough that every student should be required to take them? Was there value in giving students a choice whether to take these courses and if so, whether, in the second or the third year?

The issues were strongly debated with views expressed about the value of the courses in question, especially by faculty who taught them. In the

end, the second-year courses all became electives, but nothing much really changed: the subject matters of the second-year courses were on the bar examination, so even though they were now electives, almost all students took these courses, and mostly in the second year.

Another significant issue addressed during that early period was, should we offer classes on Saturdays? At the time, the only Saturday class was Trial Practice, taught by a federal judge who was not available to teach during the week. (Note: the Trial Practice course was the curriculum's then only limited venture into the world of what we today call Clinical Legal Education. It was ten years later that the school began a full-fledged, clinical legal education program.)

The question regarding Saturday classes arose because we were running out of classroom space; the building was relatively small. (Later, over a period of twenty to thirty years, there would be three construction projects each of which would make a major addition to the original building.) In the end, the Saturday class proposal was defeated. And it is interesting to recall the discussion in the faculty meeting and the telling argument that won the day. The point was made that Orthodox Jews and Seventh Day Adventists would not be able to attend classes on those days. The rejoinder was that by then many of our classes were being taught in two sections, and we could schedule one of the sections so that it did not meet on Saturdays, and put those students who could not attend Saturday classes in the appropriate section. The sur-rejoinder was that this would require those students to declare their religious preferences in order to qualify for the no-Saturday classes section — and that, it was contended, would be an unconstitutional requirement. And so the proposal died. I was a very young junior faculty member, and the quality and integrity of that discussion had a strong impact on me.

A second consequence of the small size of the faculty in those early years was that in order to have all of the traditional or mainline courses taught, each faculty member needed to carry a heavy teaching load of such courses. For example, as a regular matter, for many years, I taught each year four mainline courses — Criminal Law, Constitutional Criminal Procedure, Administrative Law, and Evidence. Today, that would be an unheard-of course load; in that early period, it was hardly noteworthy. What this also meant was that, given the small number of faculty, the curriculum

could not be enriched with a wide range of specialized courses or seminars from which students could choose. To achieve that kind of curriculum, we needed to grow, and as the decade progressed, grow we did.

A third beneficial consequence of the small size of the faculty during that early period was that we were small enough to form a single social group. Faculty often got together socially and there developed a tradition of a faculty lunch table at the UCLA Faculty Center, which had been built the year I arrived. On any given day, there might be eight to twelve law school faculty at this table, which, while not formally reserved for us, was generally recognized as our table. Conversations ranged widely from erudite constitutional law or philosophy discussions to academic gossip or current events. Most often, some of the people at the table went after lunch to a downstairs coffee lounge and a 30–45-minute extension of the conversation. I always thought of the faculty lunch table and post-lunch coffee as a mechanism for bonding and integrating the faculty into a cohesive social group — one which was both nourished by, and contributed to, the tradition of a shared sense of community.

Alas, those halcyon days could not last. With the passage of time, the faculty grew; the student body grew and the physical plant grew. By the end of the decade of the '60s, the faculty had more than doubled in size. Today it stands doubled still again, to more than seventy, a number which makes things like a single faculty social group and a faculty lunch table effectively things of the distant past.

Before concluding, I wanted to mention two non-academic items, both of which, while very different from each other, also had a role in shaping the character of the law school. The first was the tragic Bel Air Fire of 1961, which swept across the low-lying Santa Monica Mountain range just north of the law school — and was clearly visible from the second-floor rooftop of the classroom/library wing of the building, which in turn was easily accessible from the office wing of the building.

The entire faculty gathered on the rooftop to watch the conflagration in awe and distress; the fire seemed very close; I had never seen anything like it before, or since. Several members of the faculty had homes in the path of the flames. Two faculty homes burned to the ground, I believe, and several more were barely saved. One of my colleagues was so traumatized by the loss of his home that it took years before he even began to rebuild.

All of the faculty were affected by what we had seen; we had front row seats to a massive tragedy, and some of our own had been directly affected.

The second item is a much more positive one — a tradition that began in those early days and still continues today — the dean's annual law school beginning-of-the-year party for the faculty and their families. What was noteworthy about these parties in those early days was their location. For the first ten years or so after I arrived, the party was held at Ken and Louise York's place in Topanga Canyon. It was too casual and informal to be called an estate, though we did jokingly refer to Ken as Squire York: it was on a hilltop; though they had goats and other animals, it did not seem to be a farm, but there was lots of room to wander and for kids to play. Subsequently, the location was switched to Monroe and Aimee Price's family summer place on a clifftop overlooking the Pacific, north of Malibu, with a stairway down to the beach below, so that we were able to have a multilevel beach party. Glorious. Only in Southern California.

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FOR THE RECORD

MICHAEL ASIMOW*

I taught at UCLAW for over forty years. I have enough memories to fill a book. When I walk the halls of UCLAW now, I am flooded with memories. Where to begin?

A bit of bio for those who don't know me. After graduating from Berkeley Law in 1964, I worked for Irell and Manella (then a small firm) in Los Angeles for two years. I got a call from a faculty member at Berkeley asking me if I had ever thought about teaching, It had never occurred to me, but the idea was very attractive. Because my family didn't want to move away from L.A., I approached UCLA, and the rest was history. This was 1967 and I was twenty-eight years old. I received the princely salary of $14,400 per year, which didn't seem too bad since it was more than I was making in law practice. The dean was the great Richard Maxwell, who almost singlehandedly rescued UCLA from the disasters of its early years.

Leaving practice for law teaching was one of the best decisions of my life. From the first day, I knew that this was the job I was born for. To this

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day, I still get a thrill out of teaching and I have always loved the research end of the job. Committees — not so much.

At UCLA I taught numerous subjects. I started as a tax teacher. The dean asked me if I could teach Administrative Law. I hated the subject in law school (where it was a required course), but I said I'd give it a try. Administrative Law turned out to be the subject in which I specialize, and I have continued working in it throughout my career. I also taught numerous other subjects including Business Associations, Constitutional Law, Business Planning, and Contracts. Because I love first-year teaching, Contracts has remained my favorite.

I retired in 2001, and started collecting my generous pension, but in fact I never retired. I continued teaching one class a year and doing research. Although I was very happy as a UCLA emeritus, in 2010, I moved to Stanford Law School. At Stanford, I still teach one class a year (depending on the school's needs) and continue doing research. This move occurred primarily because most of my children and grandchildren live in the Bay Area and my wife Merrie and I wanted to be closer to them.

As I reflect back on my forty-plus years at UCLA, my first thoughts turn to my colleagues who are no longer with us. Most of all, I remember my dear friend and tennis partner Gary Schwartz, but also my great colleagues Julian Eule, Don Hagman, Murray Schwartz, Hal Horowitz, Ralph Rice, Herb Schwartz, Ben Aaron, Arthur Rosett, David Mellinkoff, and so many others.

I'm so grateful to my thousands of students and my fellow professors. I remember so fondly the warm and friendly atmosphere of the UCLAW faculty. We had our political disagreements, of course, but everyone remained civil and friendly. There was never the kind of backbiting and political intrigue that has occurred at so many law schools. I worked under numerous deans and interim deans — Dick Maxwell, Murray Schwartz, Bill Warren, Susan Prager, Norm Abrams, Jon Varat, Steve Yeazell, and Mike Schill. Every one of them offered me nothing but friendship, support and encouragement.

To select just one of many possible subjects that I might write about now, I'd like to mention popular culture. In the 1990s, Paul Bergman came up with the idea of writing a book on courtroom movies. I offered him so many suggestions that he invited me to become his co-author and so *Reel*

Justice was born. My work with Paul was and is one of the richest collaborations I've ever had [see also the essay by Paul Bergman in this volume]. This launched me into a new career of research and teaching about the intersection of law and pop culture — that is, law and lawyers in movies and television.

When Paul and I decided to offer a pop culture seminar, the Curriculum Committee turned us down. But we beefed up our application and resubmitted it and the course was approved. I recall so vividly the many times I offered this seminar at UCLA and all the enthusiastic students who enrolled in it. I continue working on pop culture subjects to this very day. UCLAW was a place where a faculty member could branch out into a new and untried field and receive the unstinting support of the administration and colleagues (even if they had their doubts about the academic value of studying movies and television).

So I conclude these reminiscences by offering my thanks to everyone at UCLA past and present — faculty, students, and staff. I had a wonderful career teaching at UCLAW and nothing but fond memories of my many years there.

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PRANKS FOR THE MEMORIES

PAUL BERGMAN*

I joined the UCLA Law School faculty in 1970. I'm sure that one of the reasons that I ended up as a law teacher is that I enjoyed being a law student. Here are some of the ways that I continued to have fun during my first decade on the faculty side of the podium.

1. PHOTO SIN-THESIS

In the early 1970s, David Binder and his wife Melinda had recently returned from a hiking trip to Nepal. Because at the time few people had taken "exotic" trips like this, David left announcements in the mailboxes of law school faculty and staff inviting them to view slides from the trip during a lunchtime gathering in the old Faculty Conference Room. Sensing the opportunity for amusement, I purchased a few commercial slides of questionable taste. Shortly before David's presentation I wandered into his office and surreptitiously slipped a couple of my naughty slides into his carousel of slides. When it came time for the show, I was shocked to see that a huge crowd was gathered in the

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Faculty Conference Room, not just law school folk but people from Murphy Hall and elsewhere. I thought about removing my slides from the carousel but doing so would have been impossible — in their square holders, all the slides looked alike. As David was describing photos of Nepalese villagers, suddenly one of my slides popped up. There was dead silence for about ten seconds. Then David screamed one word: "Bergman." The show did go on, at least until the second slide appeared. I'd probably be sacked if I did this today, but it's an incident that no one who was there will ever forget.

2. ADJUNCT PROFESSOR OF THE WINTER QUARTER

In 1978, I was an adjunct professor of law, not yet a full professor. I was therefore not eligible for the annual Professor of the Year award. So I decided to try for a lesser award: Adjunct Professor of the Winter Quarter. Undeterred by the fact that no such award existed, I posted flyers all around the law school announcing the award and asking students to vote for me.

The "Karst Report" was issued in the middle of my campaign. The report recommended changes to the process by which applicants who were members of under-represented racial minority groups would be admitted to the law school. The changes were partly in response to the U.S. Supreme Court's recent *Bakke* decision. Nevertheless, the report generated mass protests by students. As had happened a few years earlier during the anti–Vietnam War protests, students lined the halls for days, shouting and pounding on any object that would produce a lot of noise.

I decided to use the boisterous protests as a chance to increase my chances of winning a non-existent award. I placed one of the law school's videotape recorders in the main hallway and wrote a script for a phony news story. With the noisy protesters in the background, I made a video recording of my secretary Vi Denney reporting that what was happening was a spontaneous demonstration in support of my campaign to be named Adjunct Professor of the Winter Quarter. Luckily Vi and I escaped to the quietness of the third floor before the students realized what we had done. But none of us succeeded — the faculty adopted the Karst Report recommendations, and I never was named Adjunct Professor of the Winter Quarter. (Ironically, about a decade later the faculty considered a variety of changes to the admission of

applicants from under-represented minority groups. The students of the late 1980s protested nearly as vigorously in favor of maintaining the processes prescribed by the Karst Report as the students of the late 1970s had protested in an effort to convince the law school not to adopt them.)

3. PHOTO, PHOTO ON THE WALL

Through the 1970s, the law school tradition was to display formal photos of all currently tenured law school professors on an interior wall in the law library. Coincidentally, the law school decided to terminate the tradition at nearly the same moment that Paul Boland and I were granted tenure. The wall on which we proudly expected to see photos of ourselves was suddenly empty. We took the setback sitting down — that is, we took very casual Polaroid pictures of each other sitting in our offices, eating an ice cream cone. We then went to the now-empty wall where the tenured faculty photos had until recently been displayed, and taped our photos to the wall. We left notes in each faculty member's mailbox, inviting him or her to stop by the faculty photo wall in the law library to see the newest additions. The photos stayed up on the wall for a couple of weeks before they vanished. Boland and I weren't positive that our tenured status would endure that long.

4. BERGMAN'S HOLIDAY BOUTIQUE

As holiday seasons approached, my custom in the 1970s was to create a parody of the usual holiday catalog and distribute it to students and faculty who might be looking for just that special gift to a favorite lawyer. Here are a few sample items from one of the catalogs.

Cheaper By the Case

Yes, opinions at Bergman's Holiday Boutique are Cheaper by the case! Why purchase an entire volume of the Federal Reporter or the California Appellate Reports when all you really need is one case. The cover of each case is made of genuine Alaskan Baby Sealskin (except Environmental Law cases).

Unanimous Opinion	$6.95
Opinion with Concurrence	$7.95
Opinion with Concurrence and Dissent	$8.95

Cases on Point

Do you know a special lawyer who never seems to be able to find a case on point when one is really needed? Here's the answer. Choose a specially wrapped box of six opinions from the jurisdiction of your choice, each opinion guaranteed to be strictly on point. (First 100 orders receive a 7th case on point at no extra charge.)

Boxed set of six intermediate court opinions	$19.95
Boxed set of six Supreme Court opinions	$39.95
Boxed set of six Texas opinions	$0.95

Electronic Plea Collar

Does your gift-giving list include a criminal defense lawyer who is always itching to plead clients guilty? We have just the solution: the Electronic Plea Collar. The colorless collar fits comfortably under any dress shirt. Studies prove that the collar is 94 per cent effective at preventing plea bargaining by emitting a vile odor when its language processor detects the words "deal," "drop," or "golf." Defense lawyers cannot detect the odor, but prosecutors cannot tolerate it.

Electronic Plea Collar	$24.95

Dictum Alarm

Is your favorite appellate court lawyer frequently reprimanded by judges for relying on arguments based on dictum? If so, Bergman's Holiday Boutique has the perfect gift! Just roll the Dictum Alarm over the pages of any appellate court opinion. It will respond with a loud shriek whenever it is passed over a sentence that constitutes dictum. (Activated by 28 AA batteries, not included.)

Dictum Alarm	$13.95

5. RETIREMENT PLANNING

In the mid 1970s, all UC employees were allowed to choose whether to rely exclusively on their UC retirement benefits, or to coordinate those benefits with Social Security benefits. Faculty members with specialized

knowledge in financial planning distributed memos explaining the ramifications of making one choice or the other. What these memos had in common is that I could understand none of them. Figuring that other law school faculty and staff could be in the same boat, I distributed a memo that all could understand.

To: Faculty and Staff
From: Paul Bergman
Re: UCRS and Social Security

February 18, 1975

Like Bill Klein, I have adopted a position of rigid refusal to give advice as to whether they should choose to coordinate UCRS with Social Security. However, I want to point out the following facts that I have carefully culled from the complex computations.

Retirement benefits will be larger for those whose salaries are bigger, under either alternative.

If you retire after 40 years of service, you will have worked twice as long as an employee who retires after 20 years of service.

The following figure seems to be pervasive, and may be meaningful: 32.1 per cent.

Attila the Hun had neither UCRS nor Social Security but was able to retire comfortably.

Sample computation: Multiply your years of UC service by your age when you began service. Take your Average Salary Factor, divide it by your benefit percentage, reduce that by 2 per cent of your Otherwise Eligible benefit at 64 or 65, whichever comes first, and hypothecate the remainder over a ten year span. Then figure the likely cost of a world cruise in 1990. Under either plan, you will not have enough.

6. DUSTBALL

By 1978, I had achieved a form of tenure called "security of employment." In my newly exalted status, I sent a memo to Dean Bill Warren asking him to extend the honor to another long-term law school occupant.

To: Dean Bill Warren
From: Paul Bergman
Re: Honorary Tenure for Ball O'Dust

September 1978

Dear Dean Warren,

I think it appropriate for the law school to grant Honorary Tenure to Ball O'Dust. Ball has been a member of the law school community for at least seven years. Thus, UC tenure policy requires that Ball either be granted tenure or terminated. I support the honorary tenure option because Ball has remained in the law school day and night, in his office in the corner of the third step from the top of the staircase leading to the law school's third floor. Conferral of Honorary Tenure on Ball will recognize Ball's contribution to the law school community as a welcoming presence whose steadfastness is comforting in these turbulent times.

Thank you for your consideration. I hope that you will follow up on this matter at your earliest opportunity.

Paul

7. CLASS ACTS

My interest in practical jokes often followed me into the classroom. One law student organization regularly sponsors a Red Cross Blood Drive. When a Blood Drive day coincides with one of my teaching days, I often wrap my wrists, forearms, neck and scalp with ketchup-smeared gauze. The gauze was not immediately visible to students, as when I come to class the gauze is hidden by a scarf, a hat and a sweater. I begin class with a fervent plea along these lines: "I urge you to donate blood today if you haven't already done so. I donated earlier, and I assure you that the donation process is easy and painless. The Red Cross nurses are highly skilled; you won't feel a thing." As I talk, I remove my hat, sweater and scarf, slowly revealing gauze strips that appear to be smeared with blood. As the students realize the gag, their hesitant titters build into loud laughter and often applause. Of course, I hope I never dissuaded a student from donating blood!

I taught the first year Civil Procedure course once, in Fall Semester 1991. It was my students' first law school course, and I began it by telling the students that the Admissions Office had admitted too many 1L students. (Luckily I taught this course four years before my wife Andrea became the law school's assistant dean of admissions!) Adopting my most serious tone, I told the class that three students in our section had to be dismissed, and that after observing them for a week, I would make a final decision about which students to dismiss. I gave them time to write down any objections they had. After a few minutes I called on students and put a list of their objections on the blackboard. Just as I had anticipated, virtually all of their objections were procedural: "We don't know what standards you are using to judge us." "We should have a chance to talk to you before you dismiss us." "The Dean should have the right to review your decisions." "It's too late now to do this." I then assured the students that this was an exercise: no one would be dismissed from the 1L class. The purpose of the exercise was to demonstrate that as a society we care not only about legal outcomes, but also we care strongly about the procedures that lead to those outcomes. Civ. Pro., I said, focuses on these procedures. Admittedly this exercise was as much a teaching method as a prank. But it was my way of responding to a common student belief that Civ. Pro. covers insignificant minutiae and is much less important than "real" first year courses like Torts, Contracts and Criminal Law.

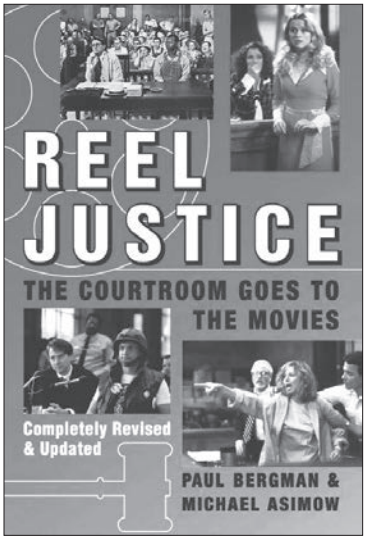
8. THE REST OF THE STORY

I am truly blessed to have been a faculty member at UCLAW for over forty-five years. When I was hired in 1970 to teach students how to be lawyers and try cases, I had been out of law school less than two years myself. If you had asked me upon graduation from Boalt Hall to identify ten ways in which I might use my law degree, law teaching would not have been close to being on the radar screen. But as a student I loved the classroom experience, and as a lawyer I wanted to use whatever skills and talents I had in service to marginalized people. Despite my qualms that I knew little more about the practice of law than my students, I thought that teaching-by-doing was a perfect way for me to find a purpose for my life that I was passionate about.

I have enjoyed every minute of it (with the possible exception of committee work). I truly value the opportunity to teach and learn from students, even though they have stayed the same age and I have gotten older every year. My law school faculty colleagues have always been kind and generous with me beyond my deserving, a true community rather than a collection of academic specialty groups. And I love writing. Just as I never thought I'd be a law teacher, I never imagined that I would have lists of books and articles to my credit.

Ultimately, UCLAW has allowed me to follow my professional interests in whatever direction they took me. When I wanted to help students improve their legal drafting skills, my proposal to teach a will drafting course and prepare wills for actual clients was approved without hesitation. Likewise for my Street Law proposal, in which I provided law students with opportunities to teach law-related material to high school students and used their experiences to help them think about how to communicate legal principles and knowledge effectively.

Most significantly, UCLAW supported the development of my interest in Law and Popular Culture. I first used clips from courtroom-focused films and TV shows as educational tools when I began teaching Evidence in the early 1990s. As I sought to identify sources of clips beyond those that I already knew about, I realized that no one had ever analyzed the genre of courtroom films even though law-related films and TV shows were for many people the primary source of their knowledge of law, lawyers and the legal system. A book proposal began to form in my mind, and over a series of lunches with my wonderful and brilliant colleague Michael Asimow the shape of *Reel Justice: The Courtroom Goes to the Movies* came together. Its publication in the mid-1990s, followed by a second edition in 2006, changed my life. Inside the law school, Michael and I developed a brand new UCLAW course in Law and Popular Culture. The course was tremendously popular, and we asked



students to think as carefully about the portrayal of law and lawyers in films and TV shows as they thought about principles of torts and contracts.

But the biggest impact of *Reel Justice* on my life was taking my interest in teaching law through film clips outside the law school. Like Michael, I have presented *Reel Justice* programs all over the country and beyond. My audiences have included law teachers, lawyers, judges, and community groups. Depending on a group's interest, film (and sometimes TV) clips are an entertaining method of addressing topics as diverse as trial tactics, legal ethics, divorce law, legal history, and (of course) principles of evidence law. I have also discussed the portrayals of law and lawyers in popular culture on numerous TV and radio shows. I am so grateful to UCLA for supporting my work because these experiences have tremendously enriched my life. I hope that in all that I have done I have also been a goodwill ambassador for the law school.

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THE EARLY YEARS OF CLINICAL LEGAL EDUCATION AT UCLA:

Across Substantive Domains

DAVID BINDER AND PAUL BERGMAN*

DEDICATION

We dedicate this brief memoir about the first decade of UCLA law school's clinical program to our late and beloved colleague and friend, Paul Boland. Paul was one of the "Three B's" during the decade before he began a distinguished career on the bench, and his fingerprints are all over the design of the UCLA model of clinical education. Paul was a genuinely kind and caring soul; if you were his friend for a minute you were his friend for life. We are grateful for our time together.

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Under the leadership of Deans Richard Maxwell and Murray Schwartz, UCLA law school applied for and received a grant from CLEPR (the Council on Legal Education for Professional Responsibility) and in 1969 became one of the first law schools in the country to establish a Clinical Legal Education program. The program was started partly in response to law student demands for greater relevance in a legal education. Students wanted to go

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beyond three years of analysis of abstract legal principles and reasoning; they also wanted to learn how to be lawyers while promoting social justice. Law schools responded by emulating medical schools and adding "learn by doing" programs that breathed new life into the traditional law school assortment of "podium courses," seminars, and moot court exercises. Students would learn how to practice law by working with faculty on actual cases.

UCLA hired David Binder to establish its clinical education program. David was then a public interest lawyer at the Western Center on Law and Poverty, but he had been a lawyer in private practice before that. Under David's guidance, the law school hired three additional clinicians as adjunct professors: Paul Bergman, Paul Boland, and Bob Chartoff. The long-term job prospects for these four initial clinical faculty members were uncertain. The CLEPR grant provided two years of seed money; after that it was up to the law school either to support the program on its own or terminate the experiment. Bravely and perhaps naively, David, the Pauls and Bob began teaching clinical courses in the fall of 1970. Bob departed the law school after a couple of years. Law school funding for the clinical program did not. UCLA continued to support clinical education and the "Three B's" developed the program as a team until 1980, when Paul Boland went on the bench. His parting gift to the law school was an ethic of caring for students and clients; his parting gift to Paul Bergman was a classic original Eames chair that Boland was too tall to sit in comfortably.

In the beginning, UCLA's clinical courses were focused on litigated disputes. Binder, Boland, and Chartoff taught Civil Trial Advocacy courses. They supervised students in the representation of low-income clients who were plaintiffs or defendants in a variety of civil disputes. Bergman taught Criminal Trial Advocacy; he supervised students in the representation of criminal defendants at trial. (Bergman somehow persuaded David Binder and the UCLA hiring committee that he was competent to do so, based on the one state court indigent criminal appeal he had handled while clerking for a Ninth Circuit Court of Appeals judge.) For the record, we fulfilled the rules that required us to secure the written consent of all clients to have law students work on their cases.

Soon after the clinical program was established, the Three B's made a fundamental decision that established a UCLA Model of clinical legal education that set UCLA apart from the clinical programs that many of

its peer schools established. We decided that our primary educational mission was to help students who would enter diverse practice areas after graduation to learn how to use lawyering skills competently. The result was a "skills-centered" clinical program that focused not on discrete types of legal problems of low income clients but instead on complex lawyering skills such as interviewing, counseling, negotiation, and trial practice. These skills were important across virtually all fields of law practice, whether clients were business leaders or low income tenants and whether legal claims were based on contracts law, tort law or the U.S. Constitution. Moreover, as a general rule these skills were not systematically taught to law school graduates by practicing lawyers — if they were taught at all. The creation of courses devoted to different lawyering skills meant that the UCLA clinical program would not become a general purpose legal services office that aimed to maximize the number of low income clients that it served.

The UCLA Model of clinical legal education had three primary characteristics:

- Courses were based on discrete lawyering skills rather than on discrete types of legal problems of low income clients. UCLA clinical courses carried titles such as Interviewing and Counseling or Negotiation, rather than Landlord–Tenant Clinic or Domestic Violence Clinic.
- In simulated exercises that took place during classes and in out-of-class individual exercises (our teaching load was heavy!), students practiced and received feedback on the skill or skills to which a course was devoted. The substantive law backgrounds of the simulated exercises varied; one might involve a contracts dispute and another one a wrongful termination dispute.
- The actual cases that students worked on were selected because they allowed students to practice and receive feedback on the discrete skill or skills to which individual courses were devoted. For example, students enrolled in an Interviewing and Counseling clinical course worked with clients who sought advice concerning a wide range of legal problems. If further legal work was needed the clients were referred to other offices. Students enrolled in a Depositions clinical course represented clients in the deposition phase of complex litigated disputes that arose in a variety of substantive law areas, both taking and defending depositions.

The skills-centered design of UCLA clinical courses helps to explain UCLA's prominence in the national development of a literature of clinical legal education. The Three B's (joined at and for different periods of time by Al Moore, Gary Blasi, Susan Gillig, Carrie Menkel-Meadow, Lucie White, Bill Graham, Robert Mann and Vikki Bonebakker) began analyzing lawyering skills and creating course materials and simulated exercises aimed at developing students' competence in the skills that lawyers needed to represent clients competently across substantive domains. These course materials became textbooks and law review articles in which UCLA clinicians analyzed lawyering skills with the same care that more traditional law school professors analyzed Torts, Contracts, and other substantive law subjects. For example:

- Along with psychologist Susan Price, David Binder wrote *Legal Interviewing and Counseling*, in which he developed the then-radical idea that legal problems belonged to clients and not lawyers and that lawyers should educate clients about alternative approaches and their likely consequences and encourage the clients to make important decisions.
- Paul Bergman wrote *Trial Advocacy in a Nutshell*, which approached courtroom advocacy as learnable skills rather than intuitive artistry. For instance, Paul's Trial Ad book incorporated the "Safety Model of Cross Examination" that Paul had developed and described in an earlier *UCLA Law Review* article. (In 2016, Paul published the 6th edition of the Trial Ad Nutshell.)
- Paul Bergman, David Binder, and Susan Price published *Lawyers As Counselors — A Client-Centered Approach*. Ever since the publication of the book and its successor editions, the notion of client-centered representation has dominated the teaching of lawyering skills within law schools and in the legal profession generally.
- David and Paul co-authored *Fact Investigation*. From the time of Langdell in the 1870s at Harvard onwards, legal education had emphasized analysis of appellate court arguments. *Fact Investigation* analyzed the processes of factual inference, and set out reasoning and investigative methods for developing strong factual arguments.

- Al Moore wrote about cognitive schema and inferential reasoning in decision-making.
- Carrie Menkel-Meadow analyzed legal negotiation and the structure of problem-solving.
- UCLA clinical faculty wrote scripts for and produced lawyering skills videotapes that were used in law school classes across the country. The videotapes consisted of short vignettes of lawyer–client interactions that law school instructors and students could critique in class. (A new generation of recorded exercises is planned as we write this memoir.)

The books, articles and materials written by UCLA clinicians were used in clinical education courses across the country. This lawyering literature demonstrated not only that lawyering skills were complex, but also that they were worthy of and amenable to description, analysis and teaching. This work helped to support the idea that clinical legal education was a legitimate part of a first-rate academic legal education.

UCLA clinicians also spurred the international development of clinical legal education by partnering with colleagues Avrom Sherr and Roger Burridge at the UK's Warwick University for a series of legendary Clinical Education Conferences. The conferences attracted clinicians from all across the country and Europe, as well as law school instructors from countries such as Japan that were in the process of trying to establish clinical programs. The conferences were paper-based, and many important lawyering skills articles that further stimulated the analytical underpinnings of clinical legal education and the understanding of lawyering skills were first presented as papers at the UCLA/Warwick conferences. The early conferences took place at UCLA's idyllic Lake Arrowhead Conference Center. The lakeside locale was so identified with the clinical conferences that when it became Warwick's turn in 1993 to host a conference, England's Lake District was the only logical site at which it could take place.

A desire to teach lawyering skills across substantive domains was reflected in UCLA's unique Witness Volunteer Program. In simulated lawyering skills exercises, students initially served as clients and witnesses for each other. But we soon realized that law students talked and acted too much like law students to serve as adequate proxies for the people whom our students would be working for and with after graduation. With that

in mind we brought on board Witness Volunteer Coordinators (the first coordinators were Bunny Friedman and Marian Gilbert) whose task it was to recruit volunteers from the community to serve as clients and witnesses in simulated exercises. The community volunteers usually performed in roles that the clinical instructors had created. But instructors often invited volunteers to "be yourself" and discuss personal experiences. Since our goal was to train students to use lawyering skills effectively across all substantive domains, the nature of the specific legal problem that a volunteer talked about was largely irrelevant. If a volunteer wanted to talk about a restaurant-related dispute in which the volunteer had once been embroiled rather than the circumstances in a "canned" landlord–tenant dispute, that was fine with us.

UCLA demonstrated support for clinical education in a variety of ways. One small example is that the Three B's obtained tenure as professors of law with full faculty rights and privileges, not as clinical professors of law with limited faculty rights as at many other law schools. UCLA also softened the margins among faculty members by encouraging clinicians to teach non-clinical courses, and vice versa. On a regular basis, David taught Civil Procedure and Paul taught Evidence. While these courses were not clinical, we incorporated simulated exercises into classes and blended discussions of skills into our coverage of substantive law.

As clinical education at UCLA and elsewhere expanded beyond its initial focus on court cases based on the legal problems of individual low income clients, UCLA clinicians maintained a skills-centered ethos. Paul for example taught a Street Law course, in which law students taught law-related materials to high school age students. Paul considered his primary "clients" to be the law students enrolled in the course, and he approached the course primarily as an opportunity to develop students' lawyering skills no matter what topics they chose to cover in their teaching. For example, how did students attempt to establish rapport with the students in their classes? What did their classroom experiences teach them about how to develop rapport with clients? What did they learn about communicating the meaning of abstract legal principles such as due process of law to non-lawyers? How might educating high school students compare to educating clients, judges and jurors? By using simulated exercises and students' teaching experiences as a vehicle for helping them to develop lawyering skills, Paul sought to help

students transfer their learning from law school into their professional lives, regardless of the fields of law they worked in.

Decades on, the excitement of the early years of clinical education remains one of the memories for which we are most grateful. All of us, instructors and students alike, were aware that we were involved in an experimental and untested type of legal education. We were privileged to experience the moments when students began to understand the meaning of professional responsibility and to realize that they could translate their legal knowledge into actions that could improve the lives of clients. The excitement extended to the videotapes we made to record students as they practiced lawyering skills in classroom and out-of-class simulated exercises. Even though the recording machines used reel-to-reel tapes and the pictures were black-and-white, in the 1970s the ability to see oneself immediately on a TV screen was itself a thrill (if occasionally painful). Our careers unexpectedly and serendipitously turned in the direction of law school teaching at a unique time in the history of legal education, and for that we are forever thankful.

Just as we teach client-centered lawyering, we are also student-centered law school instructors. With this in mind, we asked a few of our earliest clinical students to send us brief recollections of their time as UCLA clinical students. We conclude this memoir with their responses.

PAUL MARCUS (Paul has had a distinguished career as a law school academic, among other things serving as the dean of William and Mary Law School and president of the Association of American Law Schools):

> I remember vividly the time I spent with Dave Binder, Paul Bergman, and Paul Boland in the clinical program at UCLA. I learned a great deal about the practice of law, the respect to be given to all clients and lawyers, and the standards of professional responsibility that we must adhere to. We worked on cases for poor people, individuals who could not get lawyers, individuals we cared about a lot.
>
> In the coming year, I will become the president of the Association of American Law Schools. The theme I will emphasize is Access to Justice: What law schools can do to involve students and professors in providing legal services to those in need. I learned a lot about this during my time at UCLA. I never forgot it.

DOROTHY WOLPERT (Dorothy was an "OWL" (Older and Wiser Law student) when she entered law school. She has enjoyed a lengthy career as a civil litigator and a transactional lawyer):

> I couldn't possibly recount what the clinical program meant to me and did for me in a few sentences! It was the highlight of my legal education.
>
> After two years of appellate erudition, I was finally exposed to professors who were talking about people and their actual problems and how to prepare ourselves to help them solve those problems. Rigor and compassion were the hallmarks of the courses; and the principles on which they were based were loyalty and the best interests of the client and our public responsibility as officers of the court.
>
> In forty years of practice I've yet to interview a client for the first time without thinking of my closing statement. David taught me that. When I started my first job, I knew where the courthouse was — unlike many of my young colleagues. I knew from firsthand experience the awful power of a judge. I appeared in a case for a young Mexican who was on probation and was seeking permission to visit his family in Mexico, which had just suffered a catastrophic earthquake. He didn't know if his family had survived.
>
> I pled with the judge as best I could. My client, more eloquent than I, said he had to go home to grieve for them if they were dead. The monstrous judge responded in a chilling voice: "You can grieve here," and denied the request. That experience has made it easier and mandatory for me always to tell my clients that you never can know what will happen to you in a court of law and that risk factor must always be part of one's decision-making in pursuing and conducting lawsuits.
>
> Your amazing work in trying to impose some order on "the anarchy of human experience without suppressing the vitality of diversity and disarray" has inspired me and countless students and made them better lawyers. I could go on, but won't.

RICHARD FYBEL (Rich has been on the bench in Orange County, California, for many years, first as a Superior Court trial judge and later as an associate justice of the California Court of Appeal):

> In 1970 and 1971, as a third-year law student, I was fortunate to participate in the first year of UCLA law school's clinical program. The program was led by star Professors Binder, Boland, and Bergman. I represented a mother in court in dependency proceedings in a successful effort to regain custody of her child. I also represented a woman who was sued on a questionable debt; we prevailed at trial when the lawyer for the plaintiff company was unprepared and a continuance was denied. My practical experiences in the program and the important lessons learned from our wonderful professors have stayed with me during my professional career as a lawyer and judge. I remain grateful to have been included in the inaugural year of the clinical program.

BOB McKAY (Bob is in private practice as a commercial and real estate lawyer and litigator in Pasadena, California):

> I believe the clinical program that Dave Binder created was UCLA's first. I thought the class would be a respite from the typical law school routine. It was. I was excited about being in Dave's first class, and in the forefront of clinical programs with the opportunity to help real clients in real need of representation — to find out how it really works. I really looked forward to the class. Dave gave his students a head start on the real practice of law. Through the program a classmate and I had the opportunity to work on an actual case and argue in court. We won — victory attributable to the clinical program, and, of course, Dave. The experience was invaluable.

* * *

MEMORIES OF LONG AGO:

My Years at UCLA School of Law

NORMAN EPSTEIN*

It seems so long ago, probably because it is. I graduated from UCLA with a BA in the spring of 1955, entered the School of Law there that fall, and graduated with the Class of 1958. Look at it this way: if the speaker when I graduated from law school had received his or her (more likely "his" in those days) degree, as long before then as my time since then, he or she would have been admitted to practice at about the turn of the century (the one before this one). I've been asked to assemble some memories of my three years in law school, and what follows are a few of them. They stand out, mostly, because they seemed odd or startling at the time. And, looking back, they still do.

First let me set the scene. The three outstanding qualities I remember about the UCLA School of Law are that it was good, it was new, and it was free.

I'll start with the last: it was free. Or nearly so. There was no tuition for California residents, and the only thing we had to pay to the university was an "incidental fee." That was not tuition, but payment for various benefits

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that went with being a student, such as tickets for varsity games. The fee, as I recall it, was about $37 a semester. I already was the beneficiary of a free education as an undergraduate at UCLA. I was treated to a full, free public school education by the citizens of Los Angeles for twelve years, and then by the citizens of California for another seven. They gave me a profession and a life, and I'll always be grateful.

The school was relatively new then, in its first decade. The building was almost spanking new. Walking through it, the first thing we noticed was that there were three large classrooms, one for each of the three years. Each classroom was progressively smaller than the last, with the third-year classroom being about half the size of the classroom for first-year students. The message was subtle, but we all understood it.

And the school was good. The founding dean, L. Dale Coffman, had come from Vanderbilt, at about the same time and from the same place as the then-new UCLA head football coach, Red Sanders. Dean Coffman assembled a remarkably able faculty for the new school, including Roscoe Pound, the renowned former dean of Harvard Law School. They delivered a first-rate education in the law.

Two of the faculty are among the finest persons I have ever known. Arvo Van Alstyne taught Constitutional Law and several other courses. He was a brilliant teacher and a wonderful person. I enrolled in or audited every course he taught at UCLA. He eventually moved to Utah where he held an executive academic position and, I believe, was an elder in the Mormon Church. He died of cancer, far too young.

The other was Richard Maxwell, a renowned scholar and national expert on the law of oil and gas. He taught Property and several other courses. After Dean Coffman was obliged to step down as dean, and after the service of an interim dean, Dick Maxwell became the dean and guided the school into what some have described as its greatest years. Certainly so, up to then. He retired from the faculty and began a new career in legal education at Duke University school of law.

Dean Coffman taught one of the two sections in Torts, a first-year course. We were divided by alphabet, the first half being assigned to Dean Coffman's section and the other to Professor Allan McCoid. I recall vividly and with horror the day we reached the renowned *Palsgraf* case (*Palsgraf v. Long Island Railroad Co.* (1928) 248 N.Y. 339). We all knew we had to

have some grasp of that case (it's still a conundrum), or else. And many were petrified over the prospect of being called on to recite or explain it. Professor Coffman announced the case, then began to scan the classroom, moving his gaze slowly from left to right. When he got to the middle it was as though an electric eye contact had been made. The student upon whom he had then fixed his gaze thought he had been called on to recite the case, and proceeded to do so. He had it wrong, and all of us agonized dying for him, but no rescue was possible. (I don't believe that student was among the second-year class.)

I recall something almost as untoward in the final round of the Roscoe Pound Moot Court Competition. The four of us, two students on each side, were before a hypothetical supreme court made up of three federal judges. The presiding judge interrupted my argument and asked me to turn to page whatever of our brief, then to a particular paragraph and line, then pointed out that we had misspelled a word. I suppose the idea was to see if we could maintain composure. I think I mumbled an apology for the error and went on with my argument. One of the other judges asked only a single question during the entire ninety-minute argument. I've committed the question to rote memory. He turned to the PJ and asked, "Isn't it time for lunch?" Perhaps there was some wisdom that I missed. But the question did make an impression. (My partner and I managed to win the competition.)

At the time, the Office of Legislative Counsel had a program under which it brought in a second-year law student from each of the five major California law schools for a (paid) summer clerkship. I was fortunate to have the appointment from UCLA. I learned most of what I know about the legislative process and working with statutes during that summer. The legislative counsel, the first to hold that position, was Ralph N. Kleps. He was a renowned scholar and had written the definitive article on judicial review of administrative adjudication. (The article is *Certiorarified Mandamus: Court Review of California Administrative Decisions (1939–1949)*, 2 Stan. L. Rev. 285.) He later became the first director of the Administrative Office of the Courts, serving under the Chief Justice and the Judicial Council.

He shared a story with me about his time as a student at Cornell. He was president of the Young Democrats, which had invited the First Lady of New York, Eleanor Roosevelt, to come to Ithaca and give an address.

Kleps had an opportunity to speak with Mrs. Roosevelt privately. He asked her what advice she would give to a young man (meaning himself) interested in a career in politics. She looked directly at him and responded, "be born rich." He obviously never forgot it, but he evidently did forget about a career in politics.

During my final year, when thoughts turned to finding a job, the only one I was interested in was with the state attorney general. I was interviewed for the position by Frank Mackin, the assistant attorney general in charge of the Los Angeles office. His office was on the 6th floor of the old state building (on First Street, between Spring and Broadway, now razed), and my interview was at noon. It was 1958, an election year. We were about five minutes into the interview when the phone rang. The conversation lasted about fifteen minutes. I tried not to pay attention, but it seemed obvious that he was speaking to the then–attorney general, Pat Brown, who was running for governor. I always suspected that I got the job because by the time the conversation ended, I had heard too much.

Finally, I end this reminiscence where it began, at the law school. The fall bar exam was held there, in the first-year classroom. The only question I recall from the exam was from the first session. It was a mixed tort/property problem, positing two neighbors who had a party wall on their property line. After a hard rain the wall collapsed, damaging the property and causing someone to be injured. There were several of us huddled in the hall after the session, going over what the question was about. One of the group announced that he had figured out what the exam author wanted us to discuss: water rights. According to him, we were supposed to discuss various theories about getting rid of the rain runoff. My first thought was, good grief, I missed it entirely. My second thought followed: that this guy had. (I don't know how this fellow did on the bar exam.)

The exam itself was given in July, and it was hot. The air conditioning, such as it was, was not working. So, the doors of the classroom were open. The mass of sweating humanity packed inside the classroom seemed to attract every flying insect in Westwood, and they assembled there in plenary session, to attack us helpless prey. Somehow, we all got through it; I don't know about the insects.

One final story about the bar exam: The Supreme Court clerk's office was on the top floor of the state building, near the coffee shop. One morning

the clerk walked over to several of us at the coffee shop on that floor. He told us the bar results were out and we all had passed, except one of our group, Phil Griffin. We all trooped down to the State Bar office which was in the Rowan Building. Phil got up to the window to verify how he did; he was told that his name was not on the list of successful candidates. We returned to the office in a funk. Then Phil got a call from his wife. The mail had just arrived and he had passed. Turns out the list of names had been mis-alphabetized. So, we did what any recent law student would do: theorized about what torts the bar people may have committed in causing this emotional distress. (Phil went on to a long and distinguished career in the AG's office.)

As it has for so many others, the law school has been an important part of my life. And most of the memories are good ones. I have been privileged to be a part of the school family ever since.

* * *

REFLECTIONS ON MY TIME AT UCLA LAW

CHARLIE FIRESTONE*

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.

* * *

THE UCLAW MUSICAL

Introduction: UCLA School of Law, 1987–1990

GEORGE ABELE*

I had never been to Los Angeles before arriving for my first day of law school at UCLA. I knew no one. The bulletin board in the school hallway contained a flyer for auditions in a musical written and directed by Professor Kenneth Graham, and performed by law students. "What a great way to meet my classmates," I thought. A second thought crossed my mind as well: "What a great way to embarrass myself in front of the entire student body." Singing was not my strong suit. Or any suit at all, for that matter.

I sought out Professor Graham. "I'd like to be in the musical," I said, "but I can't sing." "Anyone can sing," he encouraged me. "You don't have to be a Broadway star." Practicing my lawyer-to-be skills, I negotiated a non-singing role, the only one in the production. I played a law professor who provided a narration for the performance, to fill in the storyline between the musical numbers.

We rehearsed for months, and I found the camaraderie I was looking for. Professor Graham was as friendly and as patient as one could be, gently

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GEORGE ABELE ON STAGE, FEBRUARY 1988.

Courtesy Kenneth Graham

guiding us through the storyline and lyrics he had written to Cole Porter songs. Showtime was upon us before we knew it, and we performed in front of much of the student body and faculty. I recall when I stepped out on stage to open the show, I heard a fellow classmate call out from the audience, "Let's go Abele!" Momentarily distracted, I nearly forgot my lines, but managed to survive the stage fright. We carried off the show without a hitch.

At the beginning of second year, I had the opportunity to take Evidence with Professor Graham. Recalling the bond we had forged in the play, I registered, expecting, perhaps, some lenient treatment when it came to the challenges I had heard Evidence class could present. As I settled into my seat toward the back of the class on the first day, Professor Graham began, "What evidence is admissible? Let's go, Mr. Abele!" Momentarily distracted, I completely forgot my lines.

* * *

THE HISTORY OF THE UCLAW MUSICAL

KENNETH GRAHAM*

The UCLA law school has a long history of doing musical comedy parodies. Originally, students performed these during the law school's annual variety show, "The Law Revue." For example, one year Ralph Shapiro wrote a parody of "Fiddler on the Roof" that brought down the house when students sang "If I Were A Lawyer" to the tune of "If I Were A Rich Man."

The history of the show as a separate entity began in 1981 when Bill Peters and Bryan Hull wrote "My Fair Law Student" for their classmates to perform as part of The Law Revue, then invited Professor Graham, their Procedure teacher, to fill that role in their show. At one rehearsal, when the lines they wrote did not fit the music, Graham (who had no previous experience with lyric writing) sketched out a better set of lyrics, which they readily adopted.

That might have ended it, but later that year Graham broke his elbow playing basketball. On visiting him in the hospital, the students urged Graham to try his hand at another parody for the next Law Revue. Graham agreed and, using the tunes from Rodgers and Hammerstein's

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"Oklahoma!," came up with "Carcinoma." Because of its length, the directors of The Law Revue would only schedule it if it were performed as the last number. The remaining audience applauded the performance of "Carcinoma" even though it did not end until well after midnight. And so the tradition began.

Here is a complete list of the shows and the originals from which they were taken:

1982 Carcinoma ("Oklahoma!")
1983 Obfuscate ("Kiss Me, Kate")
1984 Soporific ("South Pacific")
1985 Songs Without Heart (The Rodgers & Hart Songbook, the first show not based on a single musical but an entire body of work)
1986 Damp Hankies ("Damn Yankees")
1987 My Fair Lawyer ("My Fair Lady")
1988 Exam-a-Game ("The Pajama Game")
1989 Coleslaw (The Cole Porter Songbook)
1990 S.O.U.L.S. ("A Funny Thing Happened on The Way to the Forum")
1991 West Side Glory ("West Side Story")
1992 Guise Enthralls ("Guys and Dolls")
1993 The Wizard of Laws ("The Wizard of Oz," the only show based on a movie)
1994 The Good Lawyer Svejk (The Beatles Songbook)
1995 Muzak Man ("The Music Man")
1996 Justice Mall (the only musical based on classical music, "Pictures at An Exhibition")
1997 Anti-Kids'n'Fun ("Annie Get Your Gun")
1998 I.R.A.C., By George (The George and Ira Gershwin Songbook)
1999 Thinking An I ("The King and I")
2000 Kernal Knowledge (The Jerome Kern Songbook)
2001 Care or $ell? ("Carousel")
2002 No Diploma ("Oklahoma!")
2003 Fogey Barcicle (The Hoagie Carmichael Songbook)
2003 We're Singing It Again (the first Alumni Musical — selections from the above shows)

The careful reader of this list will note that while many of the shows took music from a single Broadway musical, a significant number drew from a composer's complete body of work; for example, "Songs Without Heart" rested on the many songs written by Richard Rodgers and Lorenz Hart.[1]

WRITING THE SHOWS

Once the musical became an annual affair, immediately after one year's show Graham began writing the musical for the following year. Usually it took around six months to complete the script. But we should note two exceptions.

"S.O.U.L.S." (the acronym stood for "Some Other University Law School") began life as a project for the annual meeting of the Association of American Law Schools. When the AALS decided to come to Los Angeles, UCLAW Professor Jesse Dukeminier (a member of the local program committee) suggested they recruit Graham to write something for evening entertainment. However, when the Committee saw a first draft of a parody of "A Funny Thing Happened on The Way to The Forum," they promptly rejected it as "too controversial."[2] Graham later recycled the script for local use.

The second case of rapid writing began when at the cast party in 1990, Graham casually mentioned that he had thought of using "West Side Story" to recount the battles over affirmative action at UCLAW but decided this would not work as the original required more choreography than usual. The students urged Graham to give it a shot. He did — and completed the script in six weeks. "West Side Glory" proved quite successful, particularly in stirring student discussion of the complexity of the issues.

Graham usually altered the original script during rehearsals — sometimes because he found a better line or lyric, but often as a result of suggestions from cast members. Hence, in addition to the original script, the show archives contain an "As Performed" version prepared after the

[1] Readers who would like to see more, including programs and photographs of the shows should visit our Facebook page, "The UCLAW Musical." The complete show archive with scripts, CDs and DVDs of performances, photos, T-shirts, and other memorabilia was deposited in the UCLA Law Library's historical collections.

[2] The premise of the show involved the then-current attempt by some right-wing groups to hire students to spy on their teachers and report any attempts to indoctrinate students with some leftist ideology.

The staff scene from the "Wizard of Laws," 1993. l.–r.: students Tiffany Wagner and Megan Satterlee, UCLA Law Librarian Fred Smith, student Marcus Delgado (seated), and (in center with long dress) Linda Kressh of the law school Placement Office.

Courtesy Kenneth Graham

show. Because students, faculty, and staff contributed to the final product, we attributed authorship to "The Aesopian Collective."[3]

Though we advertised the shows as "musical comedy" (and they had a lot of jokes poking fun at student and faculty foibles), as the example of "West Side Glory" shows, they also dealt with serious issues. Many shows had something to say about feminism and the status of women (including sexual harassment). Other shows looked at climate change and CIA spying on domestic dissidents ("Care or $ell?"), the culture of corporate law firms ("Anti-Kids'n'Fun"), jury trial ("Kernal Knowledge"), and nostalgia for the 1960s ("Fogey Barcicle"). While one faculty supporter thought the show took a Manichean view of the world, another quoted a line from

[3] For those too young to remember the McCarthy era, members of the Communist Party were accused of using "Aesopian" language that had one meaning for initiates while outsiders assumed the words had their normal meaning.

the show during a faculty meeting. In perhaps the most remarkable tale of influence, in "Soporific" one of the characters called another "a rebel without a pause." Someone in the audience used that line in an article in a national publication to refer to members of The National Lawyers Guild. From there someone picked it up to use as a label for a local talk-show host.

MUSIC AND MUSICIANS

Over the years, many talented musicians provided accompaniment for the singers and dancers, beginning with Mark Swanson who played piano for the first three shows. Mark had performed a similar role for undergraduate performances at Stanford.[4] In some later shows it took two or more pianists to fill Mark's shoes. Notable exceptions include Cathy Paul[5] and Darron Flagg.[6] So that the pianists did not have to play at all the rehearsals, they recorded the music on tape cassettes (remember those?) that were played on a boom-box at rehearsals. The cast and the pianists usually assembled at the Graham manse on the Thursday night before the dress rehearsal to run through the music.

The show had other musicians. Beginning with "Obfuscate," the show usually had a faculty band that played an overture and an entr'acte. At their first appearance, the band included Professors Reggie Alleyne (flute), Michael Asimow (piano), Ken Graham (trombone), Henry McGee (violin), and Patrick Patterson (winds and arrangements). Students sometimes joined the faculty band, but eventually students formed their own bands. Jason Axe, who, as an undergraduate, had been an arranger for the UCLA marching band, played a key role in this development. The student band originally accompanied the big production

[4] After a brief period practicing law, Mark went to music school at Indiana University and when last heard from had joined the music faculty at Dartmouth, where he served as director of university choruses.

[5] Cathy joined us for "Coleslaw," the musical that had more songs than most.

[6] Darron had classical training; his skill led Graham to the ill-fated venture into classical music, "Justice Mall," based on "Pictures at an Exhibition" by Moussorgski. But neither Darron nor his collaborators (Peggy Chen and Jason Axe) bear any responsibility for that disaster.

Professor Clyde Spillenger (right) and Adam Kaufman, a member of the student band, in "The Good Lawyer Svejk," 1994.

Courtesy Kenneth Graham

numbers, but they reached their zenith in "The Good Lawyer Svejk" when they accompanied most of the Beatles' songs in that show.[7]

In a couple of shows we used recorded music. For example, in "Damp Hankies" the second act began with the cast singing Don McLean's "American Pie." And in "The Wizard of Laws," the opening scene featured the music from "2001: A Space Odyssey." And later the cast closed Act I by singing lyrics written to accompany "The Star Wars Theme" by John Williams.

THE CAST: RECRUITMENT AND REHEARSALS

We began recruiting students for the musical soon after the start of the fall semester.[8] We posted flyers around the law school and hung envelopes with sign-up sheets on bulletin boards. The sign-up sheets asked students to indicate their talents and interests. Once we had these, we printed up scripts and held an informational meeting where students could pick up scripts, ask questions, and get a sign-up sheet for auditions.

After the students had enough time to read the script and decide what roles they wanted, we held auditions. In the early years, the student directors in consultation with Graham cast the show.[9] At the auditions, students had to read a bit of dialog and sing one of their character's songs. The student directors usually found the casting easy, but when he took over the director's role, Graham found it quite difficult, except in those years where

[7] The faculty band did a couple of numbers.

[8] In some years, student groups like ours got a table at law school orientation to provide information about and recruit members for their organizations. When available, we took advantage of this.

[9] The consultation requirement was added after several students who had been in the show the previous year quit after the student director passed them over for lead roles. Graham thought prior service in the show should count for something but most student directors rejected this.

few students auditioned. The shows were usually double-cast; that is, one student played the role in the 7:00 PM show and a different student took over the role in the late show.

The number of students in the shows varied widely and without apparent reason. For example, only twelve students appeared in "Coleslaw," which ironically had more songs than most shows.[10] On the other hand, "The Good Lawyer Svejk" had more than twenty-five cast members along with more musicians than any other show.

Similarly, the student skills spanned the range from Karen Ragland and Susan Keller, who had been professionals before coming to law school, to those who had never set foot on a stage before. Seeing some of the latter blossom over the course of their work provided a real delight. Though you might not expect this, the professionals took direction better than some of the students who thought they had been stars in high school.

We rehearsed for a month. During the first three weeks, rehearsals were held Monday through Thursday from 6:00 to 8:00 PM. However, not every cast member was called for every rehearsal; we typically called the chorus members only twice a week. But many cast members rehearsed on their own outside of the scheduled rehearsals.

Cast members were busiest the week of the show. Typically, everyone was called for every rehearsal. On Thursday night the cast assembled at the Graham home to run through the music for the first time with the pianists. The dress rehearsal took place on Friday night and sometimes the students wanted an additional rehearsal on Saturday afternoon prior to the evening's performance.[11] Then after the show, cast members helped strike the set and move props back to the law school before heading off for the cast party.

We held rehearsals in the student lounge but moved into the law school lobby to choreograph the dance numbers. The week of the show, we moved into the lobby twice to run through the show with each cast, a move that occasionally brought complaints from students trying to study in empty classrooms along the main hall. When Keith Endo took over as our sound

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[10] Because of the small numbers, leads in one show had to appear in the chorus in the other, putting further strain on their vocal cords.

[11] At the extra Saturday rehearsals, cast members usually stayed in the theater after the rehearsal, ordering takeout rather than trudging home to eat.

technician, he came to these rehearsals to see how he needed to set up the sound system — for example, which performers might need body microphones to be heard. Dress rehearsals took place, of course, in the performance venue.

FACULTY AND STAFF: RECRUITMENT AND REHEARSALS

We worked hard to get faculty to participate in the show because we drew an audience that wanted to see their professors on stage as much or more than their classmates. During Susan Prager's deanship, she encouraged faculty to take part as she did and allowed Graham to make his pitch at faculty meetings. Some faculty participated regularly, including those mentioned above who joined the faculty band.

Though most faculty did not want to do more than join the faulty chorus, Ken Karst, Dan Lowenstein, and Gary Schwartz agreed to sing solos. Once this became clear, Graham began to write songs for them to sing. When writing "The Good Lawyer Svejk," Graham asked Professor Schwartz to name his favorite Beatles tune; then "Let It Be" became "Let Tort Be." This dirge against tort reform included the memorable line, "My class notes would be obsolete." When Gary sang this in the show, not long before his untimely death, it brought the house down.

Staff participation began early, with most of the regulars drawn from the Law Library and the Placement Office but occasionally we got administrative assistants to join us — most memorably in "Songs Without Heart," where the hero (then a paralegal), went to law school at the urging of his co-workers. Perhaps the most memorable staff work came in "Anti-Kids'n'Fun" where they played The WackyNuts, a group of escapees from a lunatic asylum who flitted through many of the scenes.

On a few occasions, faculty and staff offspring appeared on stage. The dean's daughter, Casey Prager, appeared as "Dean Vaguer" in "Guise Enthralls." And Nancy Berkowitz's daughter Andrea played violin in "I.R.A.C., By George" during the song "Bummertime," based on "Summertime." Our L.L.M. candidates rarely appeared in the show, but when they did, they enjoyed it.

Originally the student director tried to do faculty and staff rehearsals, but this proved too onerous. So Kris Knaplund and Ken Graham shared

this task. (In later years, Kris also recruited faculty members). Faculty put up some resistance when we began to choreograph their production number in "West Side Glory," but our student choreographer, Julie Van Wert, finally convinced them they could do it. When they did so, the audience expressed great appreciation for their efforts — even when faculty feet would not do what their brains told them needed doing.

We made one concession to the demands on faculty time. Since faculty meetings usually took place on Friday, during dress rehearsal we usually put on the faculty out of order whenever they were able to arrive. The students did not mind since this was the first time they had seen the faculty number. Though we offered staff members a similar dispensation, many of them were willing to stick around in order to see the rest of the show. During the performance, rather than wait back stage, faculty and staff sat in seats reserved for them and came backstage shortly before they were scheduled to come on.

PRODUCTION

Putting on the show required a lot of advance work that most cast members knew little about. When the show left The Law Revue to become a separate entity, the Public Interest Law Foundation (or PILF) under the leadership of Alan Garfield agreed to produce the show in return for adding any profits to their coffers.[12] So each year, PILF provided one person (sometimes two) to serve as the producer. The producers enlisted other PILF members for specific tasks. For example, each year someone with artistic skills would draw the show logo that was used for publicity, program covers, and T-shirts.

The producer's most important task was to arrange for lighting and the sound system, as well as people with the ability to work each. During the early years, we rented lights from Angstrom Lighting in Hollywood. Richard Graham (no relation) gave us a reduced rate because PILF was a non-profit. Ditto for Jim Ash of Ash Audio. One year when our student operator had trouble working the soundboard, Jim drove all the way up from Torrance to show him how.

[12] The amounts raised varied, but even when production costs ate up most of the profits, PILF still had the advantage of telling outside funders that none of their money went to administrative costs as profits from the show defrayed these expenses.

THE CAST OF "KERNAL KNOWLEDGE," 2000, ACKNOWLEDGING THE BACKSTAGE STAFF.

Courtesy Kenneth Graham

The producer not only had to rent this equipment but also arrange to pick it up before the show and return it afterwards. Usually at least one PILF member had a pick-up truck we used for this purpose, as well as moving props to and from the law school. Most years the only such props were tables and chairs, though in a couple of shows PILF members created scenery that also had to be moved.

The producer also had to arrange for a piano. After a couple of fiascos in moving the piano from the student lounge, we turned to renting a piano from the School of Music, which greatly simplified things. The School of Music would move the piano to the venue and tune it just before the dress rehearsal. In most years, the producer also found us a pianist (or pianists).

The producer helped promote the show and provide people to man the ticket table. Most years, the promotion consisted of putting up posters and making announcements in classes. In the early years, the cast helped promote the show by giving a preview of the show songs at noon in the law school lobby. We had to drop this after some faculty complained that the crowd made it hard for them to get to the Faculty Center for lunch.

The producer also had to recruit PILF members to work the night of the show. They performed such tasks as taking tickets and handing out programs.[13] They also recorded the shows, first on Graham's boom-box, then later on his video camera. Other students worked backstage as prompters, stage managers, and prop managers.[14] After the show, PILF members helped the cast strike the set and move stuff back to the law school.[15]

We referred to the entire crew it took to put on the show as "403 N.W.2d 143" — the citation for a Michigan case: "People v. Music."

THE END OF THE PILF CONNECTION

For the most part, the relationship with PILF worked well — with a couple of exceptions. The first problem arose over the artwork for "My Fair Lawyer II." The artist, Kat Kozic, originally based the show logo on the artwork for "My Fair Lady," which showed George Bernard Shaw pulling the strings on a female figure (presumably Eliza) in a semi-recumbent position. However, several PILF members objected to this artwork as "sexist," and Kat tried several alternatives, but the only one that satisfied them showed the female figure standing upright and using a pair of scissors to cut the strings. Kat was so unhappy with this ugly version that she asked not to have it credited to her in the program.[16]

The second controversy erupted over "The Muzak Man." In one scene, an elderly spinster (impliedly lesbian) remarked that Hershey's chocolate kisses "looked a little like nipples." A PILF member wrote an angry letter to the dean, completely misrepresenting the dialog, and asking how the dean could permit the law school name to become besmirched by such an

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13 The show used what came to be known as "festival seating"; that is, first-come, first-served seating. The sole exception: we reserved seats for faculty and staff members in front so they could easily reach the stage to perform.

14 This job took on greater importance after "Damp Hankies," when the first person who played the Devil walked off with a flash producer that allowed the Devil to make fire appear to emerge from his hand — a device that Graham had bought at a magic shop at the suggestion of the student director.

15 Since the lighting and sound equipment could not be returned until the following Monday, we had to find a secure place to store it — usually Graham's office.

16 Graham then reached an agreement with the PILF leadership that PILF members were not to meddle with the artistic side of the show.

obscene production. The dean, who had been present and found nothing offensive, suggested that he take up the problem with the PILF leadership. When Graham saw this exchange of correspondence, he feared this might lead PILF to ask for control over the content of the show.[17]

By this time, the enthusiasm of PILF members to aid in the production of the show began to wane. In one year, the producer could not get enough people to staff the show and cast members had to enlist friends to fill in. Moreover, PILF now had a more lucrative way to make money — an annual auction of items donated by faculty and alumni. The last straw (at least for Graham) was when he was in the lobby selling tickets for the show while PILF members were in the lounge selling tickets for the auction.

In 1996, the PILF leadership agreed with Graham that it was time for us to go our separate ways.

THE POST-PILF ERA

The most immediate consequence of cutting the PILF connection was that Graham had to formally become the producer of the show — a role he had pretty much filled in the last few PILF years. The second (and more momentous consequence) was that since we were no longer raising money for PILF, we did not have to use the cheapest venue. As a result, the first show under the new regime, "Anti-Kids'n'Fun," moved to the Northwest Campus Auditorium. Unlike the classrooms in which previous shows had been performed, this was a genuine theater with most of the usual facilities, such as curtains, dressing rooms, and the like.

Fortuitously, the year before, when PILF could not provide a sound man, we asked the Theater Arts Department to suggest someone we could hire — and that's how we met Keith Endo. When Keith learned we were going off on our own, he told us that he had his own sound equipment and a couple of follow spots. He suggested a package deal; his services and his equipment for not much more than we had paid for his services.[18]

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[17] It never did.

[18] We later learned that in addition to his freelancing at UCLA, Keith was also a prize-winning lighting designer for legitimate theater productions.

For the rest of the shows, Kieth was more than a sound man, though he did a very good job of that.[19] During dress rehearsals, he shouted out stage directions: "Don't turn your back to the audience," or "Come downstage to deliver that line." He also made audio recordings of the shows. Finally, during dress rehearsals, Keith took photographs — lots of them.[20]

AFTER THE CURTAIN CAME DOWN

The cast first took their bows, as orchestrated by the director.[21] Once that was completed, most of the cast helped to strike the set — an onerous task for just two people, particularly after all of Keith Endo's sound equipment had to be removed from the auditorium. Once the set was struck, his equipment loaded into Keith's car, and any props moved back to the law school, it was time to head off for the cast party.

The first cast parties took place in the law school, but the venue gradually shifted to local restaurants with a few held at the home of cast members.[22] In addition to reprising their performance, sometimes the cast members presented the director with what became the customary souvenir — an enlarged copy of the show logo signed by cast members and others (faculty members or the production staff). Ken Graham had these framed and hung in his office until his retirement forced him into a smaller office, when some of them had to be moved to his home.[23]

THE END OF THE UCLAW MUSICAL

Several developments contributed to the demise of the show. First, the university tried to make up for budget cuts by increasing the fees for use of

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19 For example, in addition to the usual stage microphones, Keith also used body mics where appropriate, and a backstage speaker so those waiting to go on stage did not have to peer through the curtain to see when it was time for their entrance.

20 Several hundred of these appear on the show's Facebook page.

21 Following a custom begun by our first director, Patty Mayer, the directors did not take bows. Ken Graham did come on stage after "No Diploma" to accept a plaque presented by Dean Jonathan Varat to commemorate the show's twentieth anniversary. He did the same after the Alumni Show.

22 One early party was held at Patty Mayer's home.

23 A few of these are in the law school archives, and the rest will eventually end up there as well.

an auditorium, making the show financially precarious.[24] Second, younger faculty from Ivy League schools found the show too undignified to participate in, and some older faculty stopped participating once PILF ceased its sponsorship.[25] Finally, the author's muse seemed to have deserted him.

The show left an interesting legacy. It raised thousands of dollars for the UCLA Public Interest Law Foundation. It brought students, faculty, and staff together in a common effort that enriched their interactions elsewhere. It led to several marriages between cast members that endure to this day, including the marriage of a faculty member (Evan Caminker) who went on to become the dean of the University of Michigan Law School. But most importantly, as many students wrote when they signed the show posters and repeated at alumni reunions, "It was the most fun I had in law school."

* * *

[24] Dean Susan Prager covered the shortfall during her deanship and later Ken Graham subsidized the excess costs of the show over the money from ticket sales.

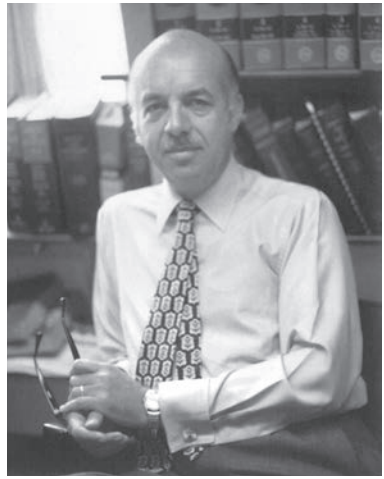
[25] Faculty participation not only helped bring out an audience but also validated student participation in the show.

I LICENSED NIMMER

ALEX KOZINSKI*

I started law school at UCLA in the fall of 1972. No one in my family had been a lawyer or had anything to do with the law, so I had no idea what to expect. The first day of class, I had quite a surprise: The professor at the front of the class looked very familiar and, on closer inspection, I recognized him as Edgar "Ted" Jones, the judge on the 1960s TV show, *Day in Court* — an early and much tamer version of Judge Judy and Judge Wapner.

Was I jazzed! A law school with celebrities as teachers. I knew I'd made the right decision in picking the school



Melville B. Nimmer
Photo by Hon. Alex Kozinski

* Judge (formerly Chief Judge), U.S. Circuit Court of Appeals for the Ninth Circuit, Pasadena, California. Reprinted by permission of the author from 60 J. Copyright Soc'y U.S.A. 201 (2013). For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

closest to Hollywood. It was also the only one that didn't reject me, but I took credit for that too in strategically blowing a few key classes as an undergrad. The professors that first quarter were all showmen of one type or another, the way law professors tend to be. Some did it by strutting across the classroom and gesticulating with dramatic flair. Others did it by presenting deep paradoxes or anomalies in the law, and asking us to ponder the mysterious and nonlinear way in which the law developed. Still others did it by creative use of the Socratic method, always managing to manipulate students into making contradictory arguments and then telling them they were beginning to think like lawyers. And one did it by lampooning my accent, which got a big laugh.

There was one class that was a bit different, and that was Contracts. The professor was a neatly dressed, quiet, balding man with a mustache. He always wore a suit, a tie, and a shirt with French cuffs. He would walk into class, sit at the desk on the dais facing the class and, at the stroke of nine, start lecturing. He didn't move the entire period, except to turn pages in the book or recognize a student by pointing.

The entire lecture consisted of words, spoken softly but clearly, as he deftly peeled back the mysteries of consideration, meeting of the minds, parol evidence, and mutual mistake of fact. His explanations were simple and to the point; his Socratic dialogue was always calculated to illuminate, never to shock and awe.

Only once during the two quarters he taught us Contracts did Nimmer get up from his desk. I remember it vividly because it was such an event. He was in the midst of explaining a particularly tricky concept when some student (probably me) asked a convoluted, off-the-wall question. Nimmer paused a few seconds and then, as if making up his mind to do something distasteful but necessary, he pushed back his chair and stood up. He then buttoned his coat and started to turn towards the blackboard. As he did, he turned back to us and, in a tone that was half explanation and half apology, said, "I'll have to approach the . . . the . . . board." The last word came out muffled, as if it was not a term to be used in mixed company. We all cracked up.

With a few strokes of the chalk, he drew a diagram that untangled the questioner's conundrum, and quick as a bunny he was back at his desk, wiping chalk from his fingers with a monogrammed handkerchief. His

look of relief at having survived the ordeal told us he'd never do it again, and he never did.

* * *

While Nimmer was always soft-spoken and polite in class, we found out he had used the F-word before the Supreme Court. One of my classmates had heard a rumor to that effect and we were all wondering whether inside the mild-mannered Professor Nimmer was a Lenny Bruce trying to break free.

So, at the beginning of class, one student (probably me again) asked him about his representation of Paul Robert Cohen in the Supreme Court: "Is it true that the Chief Justice wouldn't let you quote what was written on Cohen's jacket?"

"Well, he tried," Nimmer answered. "When I started speaking, the Chief Justice said: 'Mr. Nimmer, the Court is familiar with the facts of your case so there is no need to state them.'" Nimmer continued, "I felt that if I let him censor what I said in the Supreme Court I'd be conceding that the word was taboo in other courtrooms as well. So I responded, 'I think I can summarize the facts very briefly, Mr. Chief Justice,' and I did."

The class was silent as we waited for Nimmer to quote that summary, but he never did. I guess he thought that kind of language wasn't appropriate for the classroom.

* * *

One day he assigned an opinion with which I disagreed completely. I tried to make the point in class, but I didn't manage to persuade anybody, least of all the professor. Why didn't this case have a dissent? A dissent would surely have explained to everyone's satisfaction that the majority was out to lunch.

So I decided to write a dissent of my own, and when I was done I dropped by Nimmer's office and handed it to him.

"What is this?" he asked.

"It's a dissent to the Smith case," I explained. "If you'll just read it, you'll see how wrong the opinion is."

I left it with him and waited for a week or two, hoping he'd buttonhole me after class — or, dream of dreams, during class — and tell me how brilliant the dissent was and how wrong the Smith case had been, but he never did.

After a couple of weeks, I could stand it no longer. So I went to his office and asked him what he thought of my dissent.

"It was very good," he said. "You ought to write more of them." Little did either of us know that one day writing dissents would be my life.

"But were you persuaded?" I asked impatiently.

"It had its points," Nimmer said, his voice trailing off.

After a few moments of silence, I completed his thought: "But you weren't persuaded, right?"

He shook his head. There was nothing left to say, so I turned to leave. As I did, it occurred to me that I hadn't kept a copy so I asked him for it back. He looked a bit perplexed and then he said, "Um, I filed it," pointing to the trash can. So my first dissent persuaded no one and wound up in the round file.

* * *

Near the end of the school year, I got it in my head to take pictures of my various professors. I had a state-of-the-art Nikon F, and I loaded it up with a roll of Kodak Gold 100 ASA film. I stopped my various professors wherever I could find them — after class, in the corridor, coming out of the bathroom.

I found Nimmer in his office, sitting at his desk, of course. He was dressed, as usual, in a blue shirt with gold cufflinks and a conservative pattern tie. He looked pretty much as he did in class, except his suit jacket was off. When he learned my business he demurred, but I would have none of it. Realizing he wasn't going to get rid of me without a fuss, he resignedly took off his glasses and leaned slightly on his right elbow. I had about five seconds to take my best shot, and I fired off exactly one.

Those being the days of film, I had to wait till the roll was full and the film was developed to see the results. By and large, they were a mixed bag, but the picture of Nimmer was pretty much perfect. Surrounded by books, illuminated by daylight streaming into his office, neat and kempt like a model from a Brooks Brothers ad — that was the Nimmer we all knew and loved. I had a copy of the picture printed and dropped it off at his office. He looked at it, gave me a slight smile and thanked me. As I left, I wondered if the picture would get filed, like my dissent, in the round file.

* * *

It was a few weeks later, just as finals were starting. I was walking down the main hall of the law school carrying a large cardboard box with my books and notes, pretty much oblivious to everything around me. Suddenly, I heard a voice calling behind me: "Mr. Kozinski, Mr. Kozinski, may I have a word with you?"

It was Professor Nimmer. Contracts had ended weeks ago and I had no idea what he could possibly want with me. Maybe — my heart leapt at the thought — he had found my dissent under a stack of books, re-read it and decided I was right after all. Could it be?

"I don't quite know how to say this," he said, "but I may have . . . um . . . infringed your copyright."

Say what? Had he published my dissent without my permission? But he was pointing to a poster on the bulletin board right next to where we were standing. It was an announcement for a lecture he was going to give a few days later, and right there, under the title and description, was a picture of the speaker. And not just any picture. My picture.

"They asked me for a picture to include in the announcement for this lecture," Nimmer was saying. "And the only picture I could find was the one you gave me." His voice trailed off. Finally he added, "I neglected to ask your permission."

When I finally got it, I put down my box, thrust out my hand and spoke words that I'm sure many a copyright scholar would be pleased to have been able to speak: "Professor Nimmer, I grant you a copyright license!"

He took my hand and we shook on it. Little did I know that years later, in a case involving a gustatory melodrama, I would hold that a transfer of copyright had to be in writing, but a non-exclusive license could be oral: "The leading treatise on copyright law states that '[a] nonexclusive license may be granted orally, or may even be implied from conduct.'" Effects Assocs., Inc. v. Cohen, 908 F.2d 555, 558 (9th Cir. 1990) (quoting 3 Melville B. Nimmer & David Nimmer, *Nimmer on Copyright* § 10.03[A], at 10-36 (1989)).

I'm sure this was the right answer, but I've always wondered just how it got into the treatise. Do you think Nimmer put it there to make sure the license I gave him orally, on the spur of the moment, would hold up in court?

Nah. To quote Elvis, "we can't build our dreams on suspicious minds." I'm sure Nimmer knew very well that an oral license was sufficient, and when I offered it, he was happy to accept, knowing it would stand up if it

was ever challenged. And now I'm happy to grant a written license to the Copyright Society of the same picture, to be run as part of their Nimmer Treatise Commemorative Issue. I'm honored to contribute to a Festschrift celebrating the finest copyright treatise of our generation.

* * *

SOME MEMORIES OF UCLA LAW SCHOOL

JAMES E. KRIER*

I joined the UCLA law faculty in summer 1969, after a year of clerking in San Francisco and two years of practice in Washington, D.C. The school had been founded only twenty years before, and had a relatively small faculty when I interviewed there — about thirty people. By the time I arrived it was substantially larger, thanks to a hiring spree that brought me and seven or eight others onto the faculty all at once. We young turks were instantly integrated into the faculty, treated as family, but we also developed close and supportive bonds with each other, and I remember how commonly five or six of us would all be at work in our offices late into the night, consulting with each other, laboring not just on our own, but — in a way — as a group determined to make a contribution to the school.

I had offers from several established old law schools (including Penn and Virginia) considered at the time to be far superior to UCLA, yet my experience interviewing at UCLA convinced me that it was the only place for me. The people I met were warm, sharp, ready to test my mettle with

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much wit and humor, and, most important, free of the stiffness and pomposity that I found at some of the other schools I visited. They were my kind of people, and I thrived working among them, and with the young new colleagues who joined the faculty around the same time.

Westwood was still a village of sorts in 1969, and most of the faculty lived on the west side of Los Angeles, within a few miles of the law school. This made out-of-office socializing easy, and there was lots of it, usually in the form of dinner parties. There was also, of course, socializing during the workday, especially in the form of lunch at the Faculty Club, where a considerable number of us would gather at the same large table every day shortly before noon, eat together, and then go as a group for coffee in one of the club's lounges. I wonder if this wonderful tradition still goes on. I wonder if dinner parties are still a regular thing, now that many of the faculty live distant from the school, and now that the faculty is so much larger. I wonder if there is still a Ken Karst haiku contest each year. (I think it was haiku!) I wonder if the bonds among faculty are still as warm and tight as they were back in the day.

I say with utter confidence that my colleagues at UCLA were instrumental in the development of my career, and of my views about what a faculty should be. My years at UCLA were the happiest and most fruitful years of my life.

* * *

TAKING A CHANCE ON LAW, UCLA STYLE

DANIEL H. LOWENSTEIN*

According to Tolstoy's famous opening of *Anna Karenina*, all happy families resemble one another. I doubt if that is true of happy families, but to a large extent it is true of American law schools, happy or otherwise. No matter where you go to law school, you will study Property, Contracts, Torts, Crimes, Constitutional Law, and a variety of other subjects, probably believing that your task is to figure out the rules in each subject and memorize them as best you can. You will be subjected to a barrage of questions intended to help you with your real task, figuring out how to solve problems and accomplish goals within the framework of clear and unclear rules. You will hone your skills at practical reason and, nowadays, be subjected to large doses of what is called legal theory, much of it claptrap. If all goes well, when you finish you will be prepared to pass the bar examination and, although

* Daniel H. Lowenstein joined the UCLA Law School faculty in 1979 after four years as deputy secretary of state of California under Jerry Brown and four years as the first chairman of the California Fair Political Practices Commission. At UCLA he became the first law professor to specialize in election law and in 1995 he published the first twentieth-century American casebook on that subject. In 2009 he retired from the law school faculty to become the first director of the UCLA Center for the Liberal Arts and Free Institutions (CLAFI). For further information, see the Editor-in-Chief's introduction on page 1 of this volume: 11 Cal. Legal Hist. 1 (2016).

not quite prepared to practice law well, you will be prepared to be prepared for practice. Meanwhile, your professors will devote a portion of their ingenuity to figuring out ways to reduce their teaching loads and spend as much of their time as possible writing books and law review articles that once in a while will contain something useful.

Although the big picture is much the same at all law schools, an omniscient observer would find that each law school has its own particular personality, helping to shape the experience of its students and, especially, its faculty members. In this essay, I'd like to emphasize three features I believe contribute to UCLA's particular quality. A confirmed Tolstoian might jump to the conclusion that if these qualities create differences from other schools, they must tend toward making our school an unhappy one. But whatever validity Tolstoy's claim about happy and unhappy families may have, experience at UCLA suggests (I am happy to say) that the claim cannot be extrapolated to law schools.

The first feature is the mutual supportiveness that exists in the law school. This is the one my colleagues and I like most to talk about, and the possibility has to be allowed that we exaggerate its magnitude, both absolutely and relative to other law schools. But most of my colleagues and others who have visited the law school in one capacity or another have believed it is real. Perhaps the most important manifestation of supportiveness is also, fortunately, the least frequent. That is, when a faculty member finds himself in the middle of a controversy or in some comparable difficulty, his colleagues are likely to rally 'round, and quickly. More routinely, faculty members are generous with their time in reading and commenting on drafts of articles and in discussing problems that occasionally arise in teaching.

One of the things university faculty members do is present papers, often to their own faculties but also by invitation at other schools. This is also done by candidates for faculty positions. My experience at law schools, both when I was a job candidate in 1979 and since then, is that law school faculties tend to fall into two categories. Some are very aggressive when someone is presenting a paper, peppering him or her with questions, often rather hostile and of a "gotcha" nature. Other faculties tend to be quite passive. They ask few questions and the questions they ask tend to be general and even bland. Usually, the UCLA law faculty does not fall into either of

these categories. The questions are just as frequent and possibly even more probing than the first category, but they are not hostile. Rather, they are designed to help the presenter improve the paper and to get at the truth. I don't think I've ever been more proud to be a member of our faculty as at some of these sessions.

The supportive environment of the law school in particular and UCLA in general makes it a very good place to work. I do not mean to suggest that it is a utopia. For example, early in my UCLA career I learned that when the towel dispenser breaks in the bathroom on your corridor, you are in for a six-month war. But drying your hands on your trousers is worth it for colleagues and an administration (well, sometimes an administration) that will both challenge you and stand behind you.

The remaining two features can be put under one heading, "Taking a Chance,"[1] but they are distinct and I will discuss them separately. The first refers to chances the law school takes, especially in faculty hiring. The second refers to encouragement or, at least, toleration of chances taken by faculty members.

I believe UCLA stands out among leading law schools for its adventurous spirit in hiring faculty members whose records depart from the standard. I will give four examples. The first is Steve Shiffrin, who joined the faculty a couple of years before I did and was an expert on the First Amendment. Shiffrin had spent ten years teaching and coaching the debate team at CSU Northridge and during that period went to law school at night at Loyola. Things have changed, somewhat, but in those days a candidate for a leading law school was supposed to have gone to one of the half dozen or so top schools. Beyond the leading twenty or so was pretty much unheard of. But UCLA took a chance on Shiffrin, who was one of the most brilliant members of our faculty until, after ten years, family considerations caused him to move to Cornell.

I myself am the second example. My educational background more or less fit the standard mold, but equally important, especially in those days, was some combination of a prestigious federal court clerkship, employment in elite federal government offices such as the Justice Department Office of

[1] The learned reader has probably noticed that my title for this essay is taken from the song, "Taking a Chance on Love," by Vernon Duke with lyrics by John La Touche and Ted Fetter, introduced in the Broadway musical (later a movie) *Cabin in the Sky*.

Legal Counsel, and employment in a large corporate law firm. Typically, a candidate would have been out of law school three to five years. I had been out of law school twelve years, which I spent traveling around the world (one year), working for California Rural Legal Assistance, a federally-funded legal services agency (three years), working for Jerry Brown when he was California secretary of state (four years), and serving as the first chairman of the California Fair Political Practices Commission (four years). So far as most leading law schools were concerned, I might as well have spent those years in a Bowery flophouse. But UCLA took a chance. Okay, the thing about taking a chance is that it doesn't always work out so well!

The third example is Gary Blasi. Blasi went to college at the University of Oklahoma and never went to law school at all. Rather, he qualified to take the California bar exam the old-fashioned way, by apprenticeship. He took and passed the exam in 1976 and our law school took a chance on him in 1991. He has had a distinguished career and helped to found the David J. Epstein Program in Public Interest Law and Policy, as well as contributing to the law school in countless other ways.

The final example is Sam Bray, whose record, while mostly as blue-chip as you could ask for, included an undergraduate degree from Bob Jones University. About ten years ago I spent three weeks in a seminar with a woman who was an expert in eighteenth-century English literature at Bob Jones and I learned (to my surprise, I am embarrassed to say) that there was some first-rate intellectual activity going on in that place. Nevertheless, I am pretty sure that Bray's *curriculum vitae* caused some lips to curl at other law schools. UCLA took a chance, and once again hit the jackpot. Bray, whose interests are wide-ranging but has concentrated particularly on remedies, is off to a great start in his career and was awarded tenure not too long ago. Among many other things, he is the author of what might be the only published law review article on the hendiadys — and it is a gem.[2]

UCLA — and this is a trait of the campus generally, not simply the law school — encourages or tolerates chance-taking by faculty members. One example is the latitude faculty members have in extending their teaching and research in unconventional directions. A typical example from early

[2] Samuel L. Bray, "'Necessary AND Proper' and 'Cruel AND Unusual': Hendiadys in the Constitution," 102 *Virginia Law Review* 687 (2016).

in my own career at UCLA is that in my first year, I taught an existing course entitled Legislation. By my second year, I had decided the course I wanted to teach was on election law, so a new course was created with the title "Law and the Political Process." At the same time, I devoted my research to election law and began, for starters, with a couple of articles on the California initiative process. At the time, no other law professor in the United States was specializing in election law and, even after Proposition 13, the initiative was about as obscure a subject in academe as you could find. Neither UCLA nor I could know that for a wide variety of reasons, election law would eventually become an important subject both in the legal–political world and in law school curricula. Around the same time, faculty members were extending the bounds of courses and research to "Law and —— ," with the blank filled by a bewildering variety of subjects, such as economics, psychology, history, philosophy, political science, literature, and many, many others.

But although this latitude in teaching and research is real and important, it is not in itself distinctive to UCLA in general or the law school in particular. Most law schools and universities, especially the better ones with reasonably ample resources, are similarly permissive. Furthermore, the latitude can be abused. In a history department, a faculty member offers a seminar entitled, "Working Conditions for Women in the Textile Industry in Lynn, Massachusetts, from 1820 to 1840." Can you guess what that faculty member's current research project is on? For better and for worse, flexibility in teaching and research is inevitable in a higher educational system in which the academic departments reflect disciplinary divisions established well over a century ago.

What, then, is distinctive about UCLA? I would say it is a relatively high degree of pluralism. The attentive reader probably figured, when I referred in my opening paragraph to a high percentage of legal theory as claptrap, that whatever else may be true of the author of this essay, he is — for better or for worse depending on your taste — pretty cynical. Not so fast, for here is the point: many if not all of my colleagues would probably agree that much legal theory is claptrap. The question on which we would disagree is, which parts? One of the subjects I teach is statutory interpretation. I believe some of the theoretical debates in statutory interpretation — for example, textualism vs. intentionalism vs. purposivism — can be

quite illuminating and of unusual practical importance, given that some of the leading theorists are or have been prominent judges. No doubt, many of my colleagues regard these theoretical disputes as nonsense or, to stick with the technical term I've been using, claptrap — terms I would readily apply to some of their pet legal theories.

Such differences do not prevent us from being happy colleagues. At UCLA — and I repeat that this is not at all limited to the law school — there is a wide and deep norm of laissez-faire. I may think what you are doing is nonsense, but I won't try to interfere, and I don't expect you to try to interfere with my preferred brand of nonsense. In the law school, UCLA's strong observance of pluralism has both reinforced and been nourished by the supportiveness and the willingness to take a chance in hiring that I have described. It also gives a particular quality to the latitude in teaching and research that, as I have mentioned, is not in itself unique to UCLA.

The laissez-faire norm is widespread at UCLA and I have seen much evidence of it. I will conclude with one example, again drawn from my own experience. Eleven or twelve years ago a friend interested in higher education reform suggested I try to start a center for the study of the foundations of free institutions similar to centers being created at a number of prestigious colleges and universities. I thought such centers could serve a good purpose, but I had a broader interest. During my law school career I had sadly observed what seemed to me a steady marginalization at UCLA and other universities of study of the history and achievements of Western civilization, a subject that had once been regarded as the core of a liberal education. My friend's suggestion was the catalyst for me to work with such allies as I could recruit to create what we eventually called the Center for the Liberal Arts and Free Institutions, or CLAFI.

The reasons for the marginalization of Western civilization were many and complex. Some were bureaucratic; some reflected a broad tendency in universities away from the humanities in favor of supposedly more economically relevant areas such as STEM; some reflected changing fashions; and some — oddly in my opinion — were ideological. These and other seeming barriers were what made me think success in creating CLAFI was a long shot.

Developing a group of supportive faculty members took time but was not difficult. What very pleasantly surprised me was the positive response

of the administration. I spoke to a number of UCLA officials, who ranged from cordial to enthusiastic. When a tentative decision was made to house the new center in the Humanities Division, the then-dean of Humanities, Tim Stowell, wisely decided to take on getting the opinions of a number of faculty members within the division. I had a very good meeting with him in which he made a comment that I believe was crucial to his agreement and very relevant to this essay. Many of the faculty members he spoke to had no interest in what CLAFI proposed to do and, in some cases, may even have been somewhat hostile. But they nevertheless recognized that CLAFI would serve a number of people at UCLA who were interested in its goals, and for that reason they supported (or at least did not oppose) its creation. That is laissez-faire in action. CLAFI has never encountered the resistance and controversy that has befallen somewhat comparable centers at other institutions.

When CLAFI was approved, I wanted to be able to devote most of my time to it. I therefore retired from the law school, though with emeritus status I have been able to continue teaching there each year. The law school administration was cooperative in my switch and where appropriate has continued to support me in my new venture.

Had I been inclined to do so, I could have filled an essay of at least this length with complaints and criticisms of UCLA and the law school. But in the ways that matter most, UCLA is a splendid place to work and, more importantly, facilitates the faculty's teaching and research that, at their best, serve the people of California.

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MY TIME AT UCLA LAW

ELWOOD LUI*

My parents emigrated from Canton (Guangzhou), China in the late 1920s. I was the youngest of seven children born and raised in Los Angeles. My parents' relatives and friends dreamed of making a sufficient fortune to return to China to retire. World War II and the Chinese Civil War dashed that dream for many of them. While my parents did return to China about a dozen years later, they were able to return to Los Angeles just as the Japanese army was about to capture Hong Kong, where the family had been living.

I was born after the family returned from China and just before Pearl Harbor. My father's business was successful enough to allow my older siblings to attend college. But when it came time for me to go to college, I had to pay for my own education. Fortunately, I was admitted to UCLA, which had a great reputation and was virtually tuition free at that time.

When I arrived at UCLA as a freshman in the fall of 1958, it was quite different demographically than it is today. There were very few minority

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students. It was a bit scary for me at first because everyone seemed so intelligent. I had an aptitude for financial matters, and eventually I decided to study accounting to improve my prospects for employment after graduation.

The business school was located adjacent to the law school. The law students seemed to study constantly and appeared to enjoy what they were doing. It also seemed that the best accounting students were planning to attend law school.

As the Vietnam War was escalating and the draft seemed to be a certainty, my closest friends and I decided that by joining the Army Reserve, we could at least determine our own destiny and not be drafted. After six months of active duty, I returned to UCLA to earn my MBA at the business school. After receiving my MBA, I married and went to work at Deloitte, one of the large accounting firms. My first child was born soon thereafter. While I had, as I had hoped, enjoyed the study of accounting, I found the work in that field not as satisfying, so I began night law school at Loyola and finished the first year while working full time. I missed UCLA and the environment of the campus — Loyola just didn't seem like home. Fortunately, I did well enough in my first year to transfer to UCLA law school.

I can remember walking up the front steps of the law school and to the admissions office to enroll. I was excited, and happy to return home after spending five years on the UCLA campus, mostly around the law school itself.

My class of 1969 was the last of the small classes, and we had only around 180 students. The next two years were grueling. In addition to working full time to put myself through school and support my family, I attended Army Reserve meetings two weekends a month during my second year. I was always tired, but I could eventually see the light at the end of the tunnel. As a working student, there was not much time for any extracurricular activities.

The weekend before final exams in my last year of law school, my wife went into labor with our second child. I spent that weekend studying for finals and awaiting the birth of our second son.

One of my favorite family photos is a picture of my parents, my wife and our sons outside Kerckhoff Hall on the day of our law school graduation. My wife is holding our new baby as our older son stands next to her,

smiling. That night, my father told me for the first time that he always hoped that I would become a lawyer because one of his most respected friends, Y. C. Hong, was the first Chinese American to be admitted to practice in California. He wanted me to be like Y. C., who had been my mother's immigration lawyer and was a pillar of the Chinese community.

At that time it was difficult for minority and women lawyers to obtain positions in private practice firms, so I started my legal career at the California Attorney General's Office. After a few years, I went into private practice, before having the good fortune to be appointed by Governor Jerry Brown to the Municipal Court, and then elevated to the Superior Court and Court of Appeal. I served twelve years on the bench before returning to private practice. I am proud to be the first Chinese American to be appointed to the appellate court in the history of California.

When I left the court, I became a partner in Jones Day and saw that firm grow from 400 lawyers with three offices to 2,800 lawyers with almost fifty offices throughout the world. I was asked to start Jones Day's San Francisco office, and later to supervise the Chinese practice in the firm's four offices in Greater China. There were not many minority lawyers in the big law firms when I joined in 1987, and I became the first Asian partner in a firm that had started almost a hundred years earlier. Fortunately, times have changed and minority and women lawyers are now commonplace in law firms.

Last year I decided to retire after spending twenty-eight years with Jones Day. Governor Brown reappointed me to the Court of Appeal, the first time that a retired appellate judge had made a comeback. I enjoyed my time in private practice, but being a judge is an honor and a privilege. It is a way that someone can serve the community.

I am proud that my wife Crystal and I have two sons who have also pursued legal careers. Our older son, Bradley, is a partner in Morrison and Foerster, and the partner in charge of his firm's Washington, D.C., office. Our son Christopher practiced with O'Melveny and Myers and was an assistant United States attorney before his appointment as a Los Angeles Superior Court judge.

I have been the beneficiary of an extraordinary education at UCLA, which trained me and gave me the knowledge to pursue a career in business and law. I could not have succeeded without that education.

Last month I was invited to be a moot court judge at the law school. As I was walking from the parking facility to the school, I saw several hundred high school students on a tour of the campus. I thought how great it would be if they had as good a college experience as I enjoyed. I remember the day some forty years earlier that I walked up the steps of the law school to the admissions office to enroll. After the moot court session, I wandered around looking for where my name was posted. As a donor, I was told that my name would be recognized somewhere in the school. I found it on the Founders Wall, and it made me smile — it was a small "payback" to the school for the many opportunities that it has opened for me.

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MEMORIES OF UCLA LAW SCHOOL

DOROTHY W. NELSON*

In the class of 1953, the second graduating class, there were only two women, Ann Mobley and me. Dean Dale Coffman made it very clear that we didn't necessarily belong in law school. We took his Torts class. The first day he announced that he would only call upon women on Ladies Day. Ann and I were thrilled because we knew we would only be called upon on the day he announced it would be, and so we were super-prepared on those days.

* * *

Dean Roscoe Pound taught a number of classes, all of which I took. I did well in his Common Law Actions class because I had had three years of Latin in high school. If you gave a particularly good answer to any of his questions in class, he made you a member of his "Tenth Legion," upon which he called to answer particularly difficult questions. We took turns driving him to school, stopping at a restaurant called Ollie Hammond's so he could have a bowl of "mush" that I called cream of wheat. Each time we

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drove him he would hand us a big cigar, and I still have stashed away in my attic my "Roscoe Pound" cigars. He was a wonderful mentor to me and recommended me for a research job at USC under a Professor Holbrook. We (with the assistance of two other research attorneys) wrote a book on how to reform the court system in Los Angeles County. During that time, I was asked to fill in for a professor teaching a law reform class and then invited to join the USC faculty as its first woman member.

* * *

When I became dean of the USC Law School, my connection with UCLA was greatly increased, for USC and UCLA had lived through the Kent State–Cambodia days, and experiments with the first affirmative action programs, together. I was on the phone, almost daily, with Dean Murray Schwartz (whose wife taught a course at USC on Law and Anthropology) and Dean Richard Maxwell, discussing strategy, and they became some of my nearest and dearest friends.

* * *

It was my feeling that Los Angeles, with three fine law schools — UCLA, USC and Loyola — should collaborate since we had some of the greatest legal talent in the U.S. in Los Angeles. We often exchanged faculty (I borrowed Professor Mel Nimmer for example) and had a number of joint faculty workshops. Together we created the Western Center on Law and Poverty. It was housed at USC. Unfortunately, when the Western Center Board decided to sue Police Chief Davis for harassment of Blacks in Los Angeles, a decision that the Center had made, having nothing to do with any of us as deans, the police chief went on public television calling me a "communist," causing great unhappiness for the very conservative USC Board of Trustees. It was my friends at UCLA and Loyola law schools who helped me survive this crisis.

* * *

Perhaps the most significant thing to happen to me during my time at the law school was my introduction to the Baha'i Faith. Our freshman class had approximately seventy-two students, including two women (Ann Mobley and me) and one Black student. A professional fraternity invited the entire

class to join. We all did. Six weeks later, we were informed by letter that no women or Blacks could join. This was 1950 (before *Brown*). The president of our class, Donald Barrett, called us all together and suggested that we all resign and form the UCLA Law Association. We all agreed.

I had known Donald as an undergraduate, a very bright and a successful campus political figure — after all, he was our class president — but I honestly didn't think this was something in which he was interested. I approached him and asked him why he did it. He replied that his whole life was changing because he was going to Baha'i meetings in Westwood Village. I said, "Oh, is that Buddhist or Hindu?," for I had never heard the word Baha'i before. He said, "No, it is the latest of the world's revealed religions. It teaches the abolition of racism and prejudice of all kinds and such principles as the equality of men and women. Basically, he said that the Baha'i Faith believes Messengers or Manifestations of God appear every 500 to 1000 years to renew the spiritual teachings of God (Power of Prayer, Golden Rule, Fatherhood of God) that remain constant, and to update the social teachings as mankind matures. He called this progressive revelation, each Messenger writing the latest chapter in one continuous book. The latest Messenger is called Baha'u'llah (Arabic for the "Glory of God") who proclaimed his Message in Persia in 1863. Then Don said that there were no clergy in the Faith for this is the era when all on the face of the earth will be educated so that they may seek out truth for themselves. He asked if my husband and I would like to attend a meeting in Westwood, called a "fireside," where someone would speak and then questions and answers were entertained. I respectfully declined due to my activity in my Episcopal Church, but thanked him for his courageous action. To make a long story shorter, Don became a Baha'i our second year of law school and we watched and listened to him intensely. In the next ten years, members of our class and their families, seventeen in number, became Baha'is. It materially affected my life because Baha'is resolve conflict in over 180 countries (6 million members) through "consultation," a form of mediation, hence my specialty in mediation and Alternative Dispute Resolution as an academic.

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UCLA LAW REMINISCENCES

STEVEN Z. PERREN*

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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