

A Tribute to Marybeth Peters – Copyright Society Journal

As the great secret agent, Maxwell Smart, Agent 86 of Control, once said, after vanquishing one of his villains: “...if only he’d used his genius for niceness, instead of evil.” This is perhaps a sentiment that could easily be applied to many in Washington, D.C. – especially, and regardless of one’s political leanings – to those in the government. But, it has never been used to describe Marybeth. She has always used her genius for “niceness.”

In fact, Marybeth has confided that she is personally the proudest of all of her myriad accomplishments, of having been universally kind to the people in the Copyright Office with whom she has worked – for forty-five years – and kind to all of the Office’s “clients” on the outside. This speaks volumes about her character in a city that often measures accomplishments and success by an accumulation of power, and, a (testosterone-driven) “flexing of political muscle.” In all of her time in government, including over sixteen as the Register of Copyrights during tumultuous copyright times (that is, the digital “revolution”), one can neither find “political enemies” nor those who speak ill of her or her work. Some may disagree with a particular policy position or ideology on a matter, but none with her management style – which is driven by a principled willingness to be open-minded, thorough, fair and yes, equally nice, to ideological friends and foes.

The absence of “political opponents” or drama, might have been easily achieved if she had maintained a low profile and accomplished little, but in fact, she has had a very high profile for a Register of Copyrights, and accomplished quite a lot, pushing copyright law – and the aspirations and protection of authors, creators, producers and users -- forward and effectively so, into the digital era. She revamped the Copyright Office registration system, for the first time in its history taking it to an online system, and she completely re-engineered the entire organizational and work structure of the now nearly 500 employees of the Office. She did this while remaining a well respected and well-liked leader in and spokeswoman for the Office, as well as an influential player within the larger “agency” namely, the Library of Congress, within interagency copyright policy and law deliberations, and in the courts.

It is also said of Washington that “knowledge is power” which as a Beltway reality translates to mean: it is rare for the truly powerful to openly share their knowledge with anyone - they merely use some of what (or who) they know as a political or policy instrument, or, to press their agenda (or egos). Again, marching to her own drum, Marybeth has always been a very generous person when it comes to sharing what she knows about domestic and international copyright law and policy. This has facilitated her advancement for and public knowledge of copyright law and principles. This public spiritedness, harkens back to her start as a social studies teacher in her native Rhode Island. The defining moment in her copyright career – prior to her advances within the Office -- was not her appointment in 1975 to the General Counsel’s staff, but, in 1977, her selection by then-Register Barbara Ringer (her mentor, and later, mine as well) and General Counsel Jon Baumgarten, to write internal Copyright Office training materials on the “new” law -- the Copyright Act of 1976.

After extensive research on the just-passed October 1976 law, its 20+ year legislative history, and related materials, Marybeth used her notes to teach and train the entire staff in the Copyright Office on the major revisions brought on by that new law – from the broadest strokes to the minutest detail. The “course” was known internally as “Marybeth’s Maxi-Course.” It was a marathon assignment for her. She trained all of the then-400 Copyright Office employees on the new law. For most of the Office staff this was an intense training program. For Marybeth it meant two classes a day, four days a week (eight sessions for the employees) for 16 weeks; for the clerical and technical staff she created and taught a modified 6 hour course – one hour a day for six days. Later, she took her notes and turned them into a seminal guidebook -- “The General Guide to the Copyright Act of 1976.” Her guidebook was so comprehensive and so influential (in and out of the office) that when I arrived as a senior attorney at the Copyright Office in April 1988, it was the first thing I was given as an instructional guide to the copyright law. The interesting side-story to the Guide was that it was published in October 1977 by the Office, on Barbara Ringer’s recommendation, after someone else had taken Marybeth’s written course summaries and submitted it to the Copyright Office for registration as their work -- where naturally, a Copyright Office examiner – trained by Marybeth – recognized it as Marybeth’s material!

It was not only an internal training mission for Marybeth, but one she took on the road, in the U.S., and including meeting with international governments, experts and practitioners, to teach the new law to them as well. And it was an inspirational assignment too – one she has never stopped doing; ever since that time, including her stint as Register, she has always made herself available to anyone who needs help with understanding the basics of the law, or the most complex sections of the statute or Copyright Office regulations or practice. I speak from personal experience: she was one of the best teachers of the law that I ever had – from my first day in April 1988, mentoring me – from her adjoining office -- on details of statutory and case law, Copyright Office registration and recordation practice, and international law matters. On the latter area of law, her skills were further sharpened when – during my tenure at the Office – she spent a year in Geneva (on “loan” from the Copyright Office) working in the office of the then-WIPO Director General Arpad Bogsch. On her return, we all benefited from her insight and knowledge of international law issues, and the inner workings of the (often mysterious) WIPO.

There is no “public persona” to Marybeth: rather, she is one of the most approachable powerful people in Washington. She is equally likely to be a regular classroom teacher of students, as she is talk with her employees in the halls of the Office, or to Senators, and all with the same calm, knowledgeable voice. Her annual summary of the law and Office developments at the Copyright Society annual meeting, is the best attended and best reviewed event of the year.

Foreign government officials and copyright experts are equally enamored of her kind and accessible personality. She and I helped to organize the first foreign visitor’s programs (at the then newly-created International Copyright Institute) at the Copyright Office in 1990 and I witnessed her generosity and kindness. We also shared some laughs: certainly, one of our favorite screw-ball comedy moments was when a delegate from China, having obvious language problems, took a flight to and arrived in the Dallas airport, in lieu of a trip to Washington, Dulles Airport. Somehow, Marybeth, working with worried U.S. and Chinese government officials, made certain our visitor was safely re-booked to and arrived in our Office. For years, she has

been greeted in state capitals around the world as a welcome friend, an honest and prodigious source of information on developments in Washington, and as a teacher and consultant on changes in U.S. law or copyright developments around the world.

In fact, her persona as it were, to all her colleagues, here and abroad, is that same open, caring, honest, forthcoming leader and teacher. It is laughable to even consider any “corrupting influence of power,” any cynicism, and certainly, any corrosive effect of Washington on her after all this time when considering her tenure in office. Nothing, in fact, has, in any way, dampened her likeable and, yes, innocent, personality.

In fact, Marybeth – in a story she loves to tell (and she tells the best “Marybeth stories”) - started as an “innocent” and ends her career equally un-affected and un-corrupted as her first day at the Office in 1965. That “innocence” can be traced to her upbringing. Here is one she has often told: in law school at George Washington University, she was one of only four women in her class. On a torts law final, there was a libel fact-pattern question pertaining to a (false) accusation of sodomy. The question put by the professor was: is there a viable tort claim? As Marybeth tells it: “the nuns didn’t teach me about that” and so, on her final exam, Marybeth answered the question of whether the alleged libeled party could bring a cause of action, as follows: “I don’t know what sodomy is, but it sounds really really bad” – thus, agreeing that a tort claim could be pursued. Adding insult to injury, the law professor, handing back final exams (the next semester), said: “can you believe there was someone in this class confused by this question because she didn’t know what sodomy is?” And one can only guess that with only four women in the course, and Marybeth’s unique laugh, that the “innocent” (she) was quickly identified. And yet, for years, Marybeth has loved to tell that story, laughing every time she recalls it. In fact, she uses her laugh and her great sense of humor effectively. Anyone who has heard her laugh, remembers it. Few outside the Office know it, but her laugh was used – for many years – as a musical instrument by the Copyright Office choral group for the Office holiday sing-a-longs. Another story she loves to recall.

It is said that to be really good at something, you have to really love what you do. Marybeth both loves the mission of the Copyright Office and its staff, and the purpose of copyright law – which is why she is and has been so good at it. She had a strong musical background when she arrived at the Copyright Office, with a longstanding love of classical music (continuing to her present season-ticket holder status of the National Symphony Orchestra). From a young age, she had taken music lessons in piano, and later clarinet and the oboe – playing in school bands (marching and otherwise), and even the Rhode Island Philharmonic Youth Orchestra. So, it was no surprise that she began her career at the Copyright Office (after a short stint in the Library of Congress proper) as an examiner in the Music Section. Her love of what copyright law “produces” and supports is obvious; it is what she (and I) suggest is an emphasis on supporting the development of a professional class of artists and creators (and producers), as well as the growth of historically and culturally important materials, while at the same time supporting public libraries and archives to develop and make accessible materials for education and research, and, entertainment, perhaps in that order.

In our love of the law, and more importantly, what the law facilitates (music, film, literature, art, etc.), we have a lot in common. In our careers at the Copyright Office (mine a short stint in comparison – from 1988 to 1994), both of us were mentored by and revered

Barbara Ringer. In fact, when Barbara returned to the Copyright Office in 1992, serving as Acting Register of Copyrights (in 1993 and 1994), she was torn with filling the vacant slot of Acting General Counsel between me and Marybeth, until a permanent Register could name a permanent General Counsel. So, Marybeth recommended, and Barbara, ever the fair-minded teacher, agreed, to alternate us as Acting General Counsels – from a period at the end of 1993 into 1994, when that August, Marybeth was named Register (and I, serving my tenure as Acting General Counsel, later decided, that after 17 years in government, it was the right time for me to depart from the government, and, alas, the Copyright Office). From my first day in 1988 in the Office to her last in December 2010, Marybeth and I have remained (and will always remain) good friends.

Although I have known and worked with her for over 22 years, my fondest memory of and with Marybeth, is a very recent memory. Yes, there is the often told travel-adventure story (by both of us, and our third traveler and bunkmate, Kate Spelman) of our shared tiny motel room at a Copyright Society conference, where we found ourselves in the only room within 50 miles of the conference after a late night drive – really, it was more like a scene out of Frank Capra’s “It Happened One Night.” But, the favorite memory I am recalling instead, is one that is sweet and bittersweet. It was during Barbara Ringer’s declining health, when Marybeth, David Albee (a long-time Copyright Office employee and assistant to Barbara) and I drove several hours together to central Virginia, to the nursing home where Barbara was residing. The three of us spent the day with Barbara and her locally-residing friend (and fellow Copyright Office employee) Mary Lyle, telling Copyright Office stories, sharing copyright bar gossip, with many memories of good (and bad) times past, and a lot of laughter, which Barbara really appreciated – as she repeatedly told us throughout the day. The drive back was somewhat quiet and solemn as the three of us were well aware this might be (and, as it happened, was) the last time we would see Barbara.

On that drive back to Washington that day, I felt that Copyright Office kinship with Marybeth that she so often talks about in the community of the Office, and so reveres. Watching her interact with Barbara, I understood that day, why Marybeth was drawn to the Office, why she stayed, and why so many in the Office (and outside of it), feel a special feeling whenever they are with or think about Marybeth.