

Introduction  
of  
Alan Morrison

Ninth Annual Coffin Lecture on  
Law and Public Service

by Judge Frank M. Coffin  
Museum of Art, Portland, Maine  
October 12, 2000

It is reliably said that a cat has nine lives. We can now hold our heads up and proudly say that we have held our own with the cat in gathering here for the ninth Coffin Lecture. But there are weightier reasons. We have been favored with a great roster of accomplished, vital, and respected folk who traveled far, invested considerable time in preparation and travel, and shared with us some of their life and wisdom. Two Supreme Court Justices and a judge, two valiant lawyers, a Solicitor General, a former Secretary of Labor, a Senator, and an eminent historian of our nation have graced this forum.

But no one can come closer to the concept of the linkage between the practice of law and public service than tonight's speaker. He represents the complete, stripped down, unvarnished, no frills, bells, or whistles, rock bottom law-and-public-service career.

Alan Morrison began life as a normal person. He went to a fine college, Yale. Then he served in a fine branch of our armed forces, the navy. Then he went to a fine law school, Harvard. Then he went to a fine, large law firm in New York City. Then he began to follow an eccentric path. Not a primrose path; more one of cockleburs and thistles. For after fewer than two years with Cleary, Gottlieb, he fell off the wagon and joined the legendary Robert Morgenthau, then a United States Attorney. He had joined one of the most elite public law operations then going. His boss is still in business as a District Attorney for the State of New York. Our speaker is still remembered for a tax fraud trial when, during his questioning of a witness on direct examination, the witness slumped over and died from a heart attack. The story, perhaps apocryphal, goes that as the body was being removed, Morrison confided to a colleague, "You should see my cross-examination."

After four years of such shenanigans, he really jumped off the deep end and joined up with another durable and surviving legend, Ralph Nader, and co-founded the Public Citizen Litigation Group, a full time, professional, advocacy organization for citizens and consumers. For most of its 38 year history he was the Group's director. Not too long ago, he stepped down to concentrate on cases, but he is presently acting director.

Just what is this Group? It is a deliberately small enclave of about ten public interest lawyers ~ top of the mark litigators who, despite Spartan pay and accommodations, stay on with the Group for extended periods.. It occupies a unique niche. There are many other watchdogs, gad flies, ombudsmen. There are today Sierra Clubs and other environmental groups; there are the ACLU and the Maine CLU focusing on civil liberties; there are deeply dedicated groups fighting for criminal defendants, death penalty candidates, desegregation, women's rights, the disabled, prisoners, and immigrants and aliens. When Alan Morrison left new York City in 1972, not many of these existed. A vast terrain awaited ploughing..

As I see it, a pattern for Alan's new Group emerged. . . not wholly by accident. For one of

the idiosyncratic facts about our speaker is that, tucked inside his wallet is — and always has been — a little slip of worn and tattered paper containing the aspirations for his organization that he jotted down at its very inception. These are the major goals:

— Citizen participation in government.

— Openness of government has been a major lever. This has been pursued through lawsuits invoking the Freedom of Information Act, enabling scholars, journalists, organizations, and individuals to find out why government has acted as it did. The Group began by seeking written records; they are now entering the era when electronic records hold the key to understanding and participation.

— Monitoring regulatory agencies by requiring agencies to hue to reliable data, consistent criteria, and rational reasoning in every field from food and drugs to occupational safety, nuclear power, automobile safety and consumer protection.

— Accountability of the legal profession and access to justice. One of Alan's most notable achievements was *Goldfarb v. Virginia State Bar*, where he persuaded the Supreme Court that the legal profession was subject to the antitrust laws and that minimum-fee schedules were in violation of those laws. Those in most need of legal services were within his compass, as he fought, and is still fighting, to preserve IOLTA funds (interest earned on the monies of clients that lawyers pool for short periods in trust accounts) for legal aid organizations in the various states..

— Consumer protection. Here, his celebrated cases against General Motors, Ford, Chrysler, Dalkon Shield, Dow Corning Breast Implants, and asbestos manufacturers have written a virtual bill of rights for consumers.

— Union accountability has been pursued successfully in litigation involving the Teamsters and other unions.

— Monitoring the three branches of government to maintain the bedrock principle of separation of powers. This is a big order, but the Public Interest Litigation Group has won big victories. It brought to an end President Nixon's practice of impounding funds that Congress had ordered spent. It also sounded the death knell of the much used, and sometimes abused, one-house legislative veto, which gave too much power to part of Congress to shape executive decision making. More recently, it forestalled a significant enhancement of executive power in securing a ruling declaring the line item veto unconstitutional.

While there have also been very significant actions in expanding the reach of the First Amendment to commerce, in legislative lobbying, and in giving skilled assistance to litigants needing help and guidance in briefs and arguments before the Supreme Court, I see a deep and constant theme. This is a unique organization dedicated to assure the proper running, maintenance, and repair of our basic government and communal structure. Its influence cannot be underestimated. Try to grasp the import of the record. Over the years, forty plus cases have been argued to the Supreme Court. This constitutes roughly a half year's work for the Court. But they are not just cases. They are chosen and doggedly pursued because they address basic problems of structure at the core of the Court's seminal activity. And sixty percent of them have been won!

So — if one is looking for the *vita* of Alan Morrison, we can make the same reply that once was given to a query about Christopher Wren, the celebrated architect of St. Paul's Cathedral, "If you seek his monument, look around you."

All of this is somewhat formidable. Is there a human being underneath? I have been invoking my own Freedom of Information Act to penetrate the public facade. The first quality I

have discovered is not very private. It is Alan's incredible energy and production; he works hard and fast. He also plays hard and reasonably fast. At least he has had the gumption to participate with a number of you in today's five mile minithon. I am told that passersby on Connecticut Avenue in Washington are often diverted by seeing Alan on one of his runs from downtown to Cleveland Park.

A second characteristic is Alan's generosity toward colleagues. Working with a young lawyer on the latter's first attempt at writing a brief, he will say, with a deep breath, "This is salvageable." With more experienced colleagues, he will never just say, "This is bad," He will always have ideas to improve it. And he will not hog the limelight or in any way cut down a colleague.

A third quality is a commanding presence in court. He is the kind of advocate with a track record that enables him to take charge, to say to a questioning bench, "Your honor, another answer is that that's the wrong question." He is, in short, the kind of advocate to whom we judges give considerable slack. . . before we rule against him.

Looking for similarities between our speaker and myself, I was glad to find one characteristic that we shared. We both write microscopically. I do, because I have no confidence that anything I say in a first draft has any merit whatever. I suspect that is not Alan Morrison's problem. In any event, I understand that at one time his colleagues, faced with deciphering Alan's own Rosetta stone, resorted to cutting out some written commentary, posting it on the office bulletin board, and inviting people to try their hand at translating. Even Alan, a week later, would try and fail.

Without further ado, let me proudly present our ninth Coffin Lecturer, the legendary Alan Morrison.