

Introduction of  
Scott Harshbarger,  
12<sup>th</sup> Coffin Lecturer

Strengthening Democracy: The  
Challenge of Public Interest Law

October 15, 2003

This lecture series has been singularly fortunate in having persons who are outstanding symbols of public service in the law. We have had lawyers, professors, appointive and elected officials, and judges from state and federal courts and from the Supreme Court. Each had carved out his or her own plot in the public service vineyard in, for the most part, a highly focused career, ranging from fighting the death penalty to discrimination against the disabled. Tonight we hear from one whose many faceted career, as outlined by Dean Khoury, demonstrates that although roles and foci change, public service can find a place in all of them.

Indeed, it makes me think that Scott Harshbarger has, from the beginning, considered his real career public service and has merely been dressing it up in different clothes. What intrigues me is what lies behind this fascinating facade? From largely public sources, including a Boston Globe profile, I have been able to gain a few insights. We begin with our speaker swimming in a community pool with several cousins. But swimming only briefly. This was 1953, a year before *Brown v. The Board of Education* and the attendant had shied away a black youth staying with the Harshbargers. Scott's father, chaplain at Penn State, World War II conscientious objector and fervent seeker of social justice, wasted no time in ordering the kids out of the pool, adding, "That is racism. That is wrong."

My next piece of evidence is a vignette of our speaker as remembered by his Harvard classmates: "halfback Scotty Harshbarger carrying the football, knees churning, arms pumping, carrying would-be tacklers with him as he charged for the goal line." That line about carrying would-be tacklers with him reveals the real trick.

So we have two clues - the combination of a father-induced social conscience and a focused determination to charge ahead and carry tacklers with him. I must add that, these days, the sport is not football but a gentler sport, softball. But not run-of-the-mill softball. Rather, focused, determined fast-pitch softball.

I have one other footprint from the past. As a young man, after finishing work under a fellowship at Union Theological Seminary and before going to law school, he worked in East Harlem among poor blacks and Puerto Ricans on housing projects, youth sports, and gang-intervention initiatives. He said of this time, "It was the defining year of my life."

So much for the clues of the past. What was the result? You now are aware of the extraordinary range of his efforts from youthful Counsel to an Ethics Commission to heading the nation's watchdog, Common Cause. I add only a footnote on the nature of Scott Harshbarger's work as Attorney General which goes beyond routine accomplishment. He brought to law enforcement not only a persistent focus on effective punishment but an emphasis on prevention of crime. The first is illustrated by his 83 percent conviction rate in 180 prosecutions of public corruption. His prevention record is one of innovation, notably his remarkable Safe Neighborhood Initiative, involving both social workers and law enforcement personnel, and Operation Clean Sweep, aimed at clearing neighborhoods of drug dealers.

Now, putting on his hat as a private lawyer, he is urging corporations to look upon the current unrest about corporate conduct as a window of opportunity to clean house, set standards for executive compensation, audits, and independent directors, and adopt formal ethics codes.

This has been and still is a uniquely valuable career. It is the career of a congenital gadfly, in the dictionary sense of a "constructively provocative stimulus." For some, this translates into "confounded nuisance." But so often today's nuisance is tomorrow's prophet. Former Attorney General Francis Bellotti paid him the highest compliment, calling him "my social conscience." His own close associate during his service as Attorney General of Massachusetts, the Deputy Chief of the Government Bureau, Peter Sacks, matches this by saying that time after time, when difficult decisions with political consequences had to be made, Harshbarger's instruction was "[D]o the right thing based on the law and the facts."

I am deeply honored to welcome our Twelfth Coffin lecturer, one who has proven that one can have a social conscience impelling public service and survive in many roles, the Honorable Scott Harshbarger.

In somewhat of a break from tradition, before I continue with the pleasant task assigned to me, I want to bring up another subject briefly. It concerns the dean of this law school and her conduct. I thought it important enough to bring it before this audience without, for a change, running it by the dean.

Now first you must understand what a dean does. He, in this case she, is the person in a school who does the work no one else wants to do, which nevertheless they desperately need done. And so our dean is always arranging, planning, and pushing, promoting, introducing, involving, and praising others.

I propose that we stop for a moment and reflect on what and who we have and take for granted. Now there are awards and awards. One that is particularly meaningful is the Margaret Brent Women Lawyers of Achievement Award, given this year by the American Bar Association on Women in the Profession to only five women. Dean Khoury is one of the five and joins former Coffin lecturers Pat Wald and Justice Ginsburg. There are some 150 law schools in the country. Many such as Harvard and NE have women deans. But she was the chosen one.

In the formal citation, the ABA recognized her lawyering skills, intellect, dedication to using the law to help solve social problems, and, not least, the example she sets for others of melding a successful career in the law with service to the community and a rich family life.

In short, at this rate Dean Khoury may well have the makings of a Coffin Lecturer.