

Tributes to Professor Alan Hornstein

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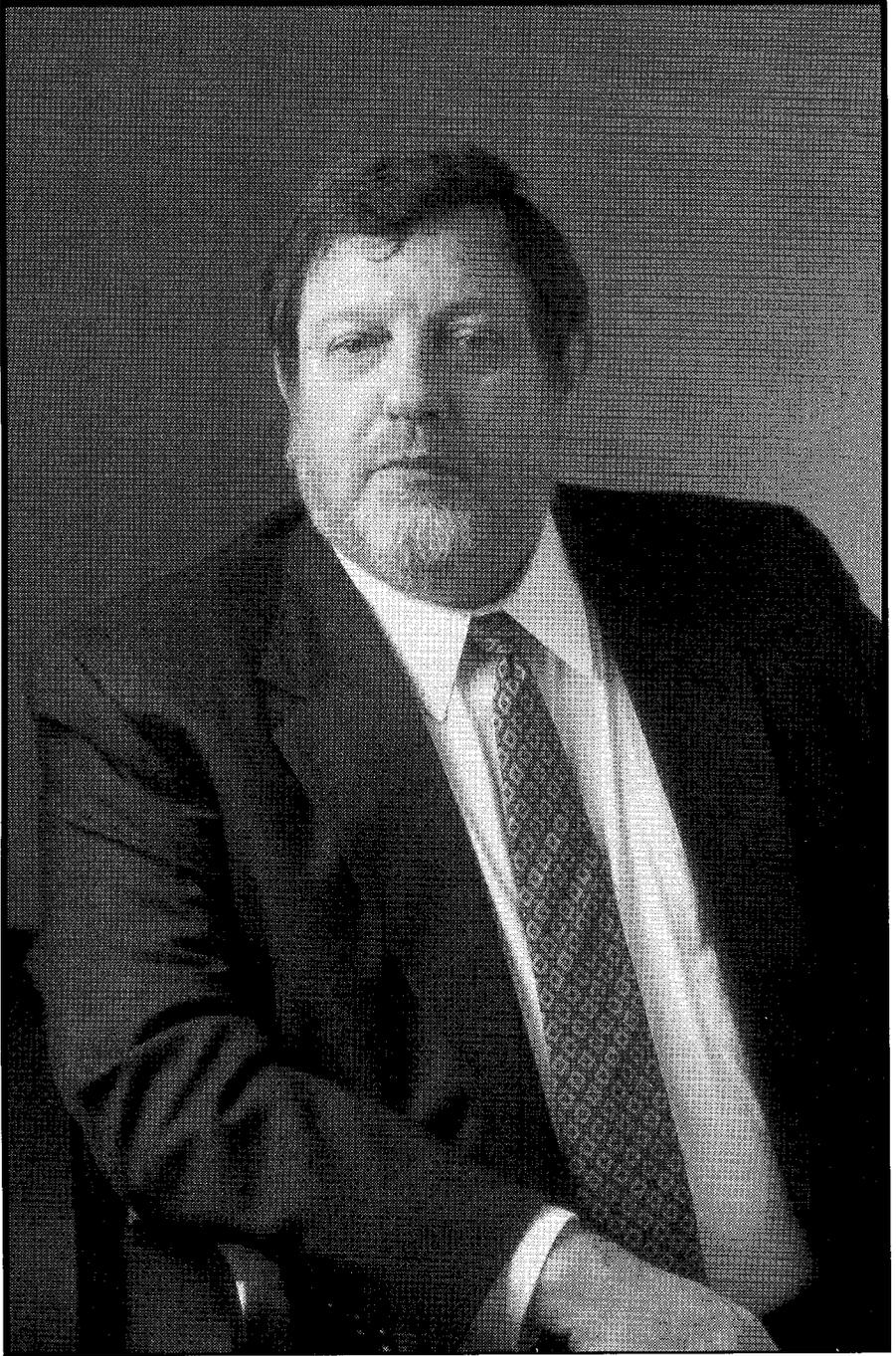
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Professor Alan Hornstein

TRIBUTES TO PROFESSOR ALAN HORNSTEIN

THE RAVIN'

E. A. PO'

DAVID S. BOGEN*

Once upon a midnight dreary, while I pondered weak and weary,
Over many a quaint and curious volume of forgotten lore,
While I nodded, nearly napping, suddenly there came a tapping,
As of some one gently rapping, rapping at my chamber door.
"Tis Alan Hornstein," I muttered, "tapping at my chamber door"—
Once again, to say, "say more."

Ah, distinctly I remember it was in the bleak December,
Or maybe twas November eighty-seven—days of yore.
When he started to unravel;—or maybe just to travel
law school wisdom to explore—asking gurus shore to shore—
How theory joined to practice made a legal learning core—
Alan noted then, "say more."

When the Irishman so certain, Kelly dropped his deanly curtain,
Hornstein—acting dean—met fantastic terrors never seen before;
Budget shortfall so immense that the State did then commence
Cutting dollars, pounds and pence, two weeks furlough made us
roar—
But Alan's firm defense kept from going hence another million; in
war
Alan told his troops, "say more."

And our students ever stronger; hesitate in class no longer,
"Sir," they say, "or Teacher, truly your forgiveness I implore;
But the fact is I was napping, and so gently you came rapping,
And so faintly you came tapping, tapping at my chamber door,
That I scarce was sure I heard you"—not in Hornstein's class that
snore;—
Just those awful words, "say more."

Much I've marveled at his power to make any student flower,
Though their answer little meaning—little relevancy bore;

* T. Carroll Brown Scholar and Processor of Law, University of Maryland School of Law.

For we cannot help agreeing that no other human being
Has been so blessed with seeing light that others all ignore—
But Alan sees it, wrenching insight from the answer's core,
With two words simply just, "say more."

Open here I flung the shutter, when, with many a flirt and flutter,
In there stepped the stately Alan of the saintly days of yore.
Not the least obeisance made he; not an instant stopped or stayed
he;

But, with mien of lord or lady, perched above my chamber door—
Perched upon a bust of Pallas just above my chamber door—
Perched, and sat, and said, "say more."

But the Alan, sitting lonely on the placid bust, spoke only,
That one phrase, as if his soul in that one phrase he did outpour.
Nothing further then he uttered—not a whisker then he fluttered—
Till I scarcely more than muttered "Does he really know the
score?—

Ah, yes, Appellate Advocacy and Maryland Evidence Courtroom
Manual 2004."

Then Alan said, "say more."

Startled at the stillness broken by reply so aptly spoken,
"Doubtless," said I, "what he utters is his only stock and store,
Caught from some unhappy college where the only useful knowl-
edge

Comes from great books and a wedge, a single question on the
floor"—

A thoughtful probing lonesome query that opens up the shuttered
door

Followed by, "Say more."

But the Alan still beguiling all my sad soul into smiling,
Straight I wheeled a cushioned seat in front of man and bust and
door;

Then, upon the velvet sinking, I betook myself to linking
Fancy unto fancy, thinking what kind of seed or spore—
What kind of germination and gestation rises out of every pore,
When Alan croaks, "say more."

This I sat engaged in guessing, but no syllable expressing
To the man whose fiery eyes now burned into my bosom's core;
But I have heard a rumor, applied to any law school tumor
That fabled Uncle Zoltan's humor, of which Alan has a store,
or his sayings, cut the gloom or at least supply a useful metaphor,
followed by "say more!"

Then, methought, the air grew denser, perfumed from an unseen
 censer
 Swung by angels whose faint foot-falls tinkled on the tufted floor.
 "Wretch," I cried, "New York hath lent thee—by these angels it has
 sent thee
 New York—New York and Touro rend thee from our school's third
 floor!
 Stay, oh stay our thoughtful mentor, and forget Long Island's
 shore!"
 Quoth the Alan, "Nevermore."
 "Prophet!" said I, "thing of evil!—Prophet still, if man or devil!—
 Whether tempter sent, or whether tempest tossed thee here ashore,
 Desolate yet all undaunted, on this desert land enchanted—
 On this home by horror haunted—tell me truly, I implore—
 Is there—*is there* balm in Gilead?—tell me—tell me, I implore!"
 Quoth the Alan, "Nevermore."
 "Be that word our sign of parting, man or fiend!" I shrieked upstart-
 ing—
 "Get thee back into the tempest and New York's Plutonian shore!
 But you've left more than a token of friendships still unbroken,
 And colleagues who have spoken out of love and not as chore.
 You have made our law school better from the skylight to the
 floor!"
 And so, at least in spirit, you'll be with us "Evermore."

KAREN ROTHENBERG*

While it is not unusual to hear individuals praised for their legacy, few have had an important impact in as many different areas as Professor Alan Hornstein. His legacy lives on in the minds of generations of law students, in the curriculum, in the building in which the School of Law resides, and in the legal profession. As he transitions to Emeritus status, it is appropriate to reflect on his extraordinary contributions.

Since joining the Law School faculty in 1972, Alan has taught eighteen different courses, coached the National Moot Court Team, and assisted with many other student competitions. While he is a master of the Socratic Method, he has also been a leader in introducing innovative teaching methods into traditional law school courses by pioneering the use of simulation in first year courses and by playing a

* Dean, Marjorie Cook Professor of Law, University of Maryland School of Law.

key role in designing the Cardin program to integrate theory and practice. As an early adopter of technology in law courses, his creative use of PowerPoint slides to teach Evidence is legendary among many graduating classes. Finally, Alan was also interested in introducing literature into the classroom to make the law come to life. For many years, he also taught seminars and served as a Visiting Tutor at St. John's College, forging an early path in interdisciplinary collaboration.

Deans, myself included, always appointed Alan to the most important committees. If there was a committee assignment that would likely involve questioning the status quo, conceptualizing new approaches, and planning a detailed implementation, you can be sure that Alan would be involved. During the past three decades, all major curricular reforms, the promotion and tenure standards, and all self studies and strategic planning projects were shaped in large part by Alan's leadership and ability to achieve consensus. His resume shows amazing longevity on the Curriculum Committee, serving continuously since 1972. As Acting Dean of the School of Law in 1991-1992 and as Associate Dean from 1987-1991 and again from 2001-2002, Alan also played an important administrative role. As general editor of our alumni magazine, the J.D., he worked hard to foster closer relationships with alumni and to enhance the level of knowledge about the Law School in the external community.

His ability to conceptualize at a broad level while at the same time handling the intricate details essential to making projects work, has served the School of Law exceptionally well on many occasions. The new building project is the latest and perhaps the best example of this. Alan's involvement throughout the various phases of the project, from design through the myriad details of construction, was key to achieving the outstanding facility in which the School of Law is currently housed. His early interest in technology resulted in his taking a leadership role in the initial installation of a law school network in the early 1980s. Since then, Alan has consistently taken an active role in encouraging the use of technology in law classes, in ensuring that faculty and staff had access to the latest equipment and software, and in demanding that the new building be fully wired and equipped with state-of-the-art technology.

No less significant, he has made many lasting contributions to the legal profession, serving as a member of the American Law Institute; presenting annual seminars for judges under the auspices of the Federal Judicial Center and the Maryland Judicial Institute; participating in the drafting of Maryland's Rules of Evidence; and authoring,

among numerous other publications, annual editions of the *Maryland Evidence Courtroom Manual*.

Alan's legacy encompasses many different areas, all resulting from his deep commitment to the School of Law, to his students, and to the legal profession. It is difficult to imagine the Law School without his energetic presence and his constant challenges to us to move forward and to consider new methods of teaching and providing legal education. We consider ourselves extremely fortunate that he will continue his relationship with the School of Law in an Emeritus status and we look forward to working with Alan for a long time to come.

WILLIAM L. REYNOLDS*

The premature retirement of Alan Hornstein leaves a large hole in our faculty. The Law School has lost a unique resource. I shall miss Alan dearly, for both professional and personal reasons.

Let me mention the professional reasons first. To begin with, Alan is deeply interested in legal education—both its theory and practice—in all of its aspects. Consider the curriculum, a dull topic, if ever there was one, but not for Alan. This is a field where he has been very active. He was a prime mover, for example, in the recent revision of our required curriculum. Also, he played a major role in the adoption of our innovative LTP/Cardin program, and he always has been an enthusiastic supporter of our clinical program. As Associate Dean, Alan strongly supported the efforts of his colleagues to pursue their own vision of how a course should work.

On his own, Alan has been an excellent teacher, beloved by many students. Alan is a classic Socratic professor, one who expects his students to have done as much class preparation as he has done, and he prepares a lot. Students know and appreciate that he has worked hard on their behalf. Alan also has prepared innovative courses of his own, most notably a highly successful course he co-taught with Professor Jerry Deise that combined Evidence and Trial Practice into one package. He has used PowerPoint in his classes, especially Evidence, in a highly effective and sophisticated way.

As that combined course showed, Alan considers the art of teaching a subject worth study and comment. (Outsiders might not realize that such an interest is rare among law professors). His position as Associate Dean gave him a pulpit to preach to us about teaching, and exhort he did, in spades. Thanks to his efforts, the faculty has had

* Jacob A. France Professor of Judicial Process, University of Maryland School of Law.

forums, conferences, speakers—with the result that he has made our school conscious of the need to think and reflect about all aspects of teaching.

Alan has a deep interest in technology, an interest he has long embraced. He provided the vision and energy that compelled Deans to spend the money, hire excellent technicians, and provide the space for what surely is a state-of-the-art law school. All of our classrooms and seminar rooms are completely wired, a fact that enhances another of Alan's deep interests, teaching.

And then there is the new building. We now have a magnificent law school, one that still leaves me in awe (of course, I spent three decades in the old dump, and three years in the temporary building that did not even work). Alan made many contributions to the Nathan Patz Law Center, but I will always thank him for his attention to detail. He has an uncanny ability to read blueprints and to see things that I certainly never would have picked up—like a door opening the wrong way or the need to have glass panels in the hall outside faculty offices so there will always be light in the hall. (There was a drawback to this idea—no longer can we nap with impunity!) Alan's passion for this building made it a far better place to work and live in.¹

But what the Law School will miss most with Alan's departure is his unflinching devotion to our enterprise. Alan's loyalty to the School was never in question. No matter what the issue, no matter how heated the debate became, no one ever doubted that he always had the best interest of the Law School at heart.

I shall sorely miss Alan's contributions to the school, but I shall miss his friendship even more. We came to Maryland a year apart over three decades ago and together have watched (and helped, and even hindered at times) its amazing development. We also became close friends and have shared much happiness (and some grief) together. Let me mention a few things that I have lost now that Alan is gone.

First, there are the stories. Alan has an amazing fund of them. They range from his all wise-cracking Hungarian Uncle Zoltan to hilarious reminiscences about colleagues and students of long ago. (Actually, Uncle Zoltan dispenses so much wit and wisdom that it is clear that he is Irish.) And the endless, mostly dreadful (that's a compliment) puns that flowed non-stop from his lips; no mean punster my-

1. At Alan's retirement party at the School, I mentioned that the architect Christopher Wren, who built St Paul's Cathedral in London, is also buried there. His tomb has the following inscription: "If ye seek his memorial, look around." The same could be said of Alan.

self, I could only listen in envy as they rolled non-stop from that fertile mind.

I will miss Alan's insatiable curiosity about the law; not just his own scholarly areas, but anything that sounds interesting or curious. The endless debates we had about grammar and philology have now been shelved. Who else but Alan (and Rex Stout, one of our favorite authors) would start a sentence with the word "Else"? (Alan is clearly wrong in his opposition to the serial comma, for it costs nothing and always adds clarity—I had to get that in). And with whom will I swap news about restaurants from New York to Baltimore? All of this is just a long way of saying that I, as well as the Law School have lost a very good friend who was always there. Come back to visit often.

HOWARD S. CHASANOW*

When Alan Hornstein departs from the University of Maryland School of Law after twenty-three years on the faculty, he will leave quite a legacy. He influenced not just the minds of his students, but also the building in which they studied law and the law they studied.

On a personal note, I first came to know Alan, and we became friends, while I was teaching part-time at the Law School. Alan was enthusiastic about inspiring law students, but he was equally enthusiastic about inspiring new faculty members. He was exceedingly helpful to me during the years I was on the part-time faculty, and I am very grateful for his assistance and for his friendship. Even though I did not have Alan as a law school teacher, I was fortunate enough to attend several of the classes that he taught to judges at the Maryland Judicial Institute. Alan was a superb teacher and his programs were always well attended and well received.

When the Evidence Subcommittee of the Court of Appeals Committee on Rules of Practice and Procedure was created to draft the Maryland Rules of Evidence, and I was named its Chair, Alan was the obvious choice to be one of the Co-Reporters selected to assist the committee. "Assist the committee" is a euphemism for doing most of the work by preparing initial drafts of the Rules, as well as extensive memoranda about how the Federal Rules have been interpreted and how they seem to be working in practice. This was an enormous undertaking because the Court of Appeals did not want the Subcommittee simply to track the Federal Rules, but wanted a critical reevaluation to improve them, if, and wherever, possible. Alan

* Retired Judge, Court of Appeals of Maryland; J.D., University of Maryland, 1961.

brought to the task his vast knowledge of the law of evidence as well as his common sense and understanding of the arena where the rules of evidence have to be applied by lawyers and judges. Maryland's first Evidence Code, adopted July 1, 1994, is just one instance of Alan Hornstein's contributions to the jurisprudence of Maryland. Other contributions include his many superb Law Review articles and the book, *Maryland Evidence Courtroom Manual*, coauthored with Glen Weissenberger.

Alan's love of the law of evidence is perhaps best exemplified by a discussion group we organized many years ago. Apparently, Alan's evidence classes and prolific evidence writings were not enough to satiate his passion for the law of evidence so we formed a discussion group of trial lawyers and judges (with Alan as our token academic) and met monthly to discuss new evidence decisions and weighty evidentiary issues. You would think any sane evidence teacher would seek out any way to spend his free evenings other than discussing the law of evidence. Not Alan.

One of Professor Hornstein's former students, United States Magistrate Judge Jillyn Schulze, spoke recently at a luncheon given in his honor. She characterized Professor Hornstein as "a special teacher who had mastered the arts of motivation and manipulation: who could instill a love of both the subject and the process by which it is learned and practiced." Although he is leaving our State, Alan Hornstein's twenty-three years in Maryland have left us enriched by the significant contribution he has made to the education of so many of the lawyers and judges of Maryland, as well as to the development of the law of Maryland.

P. MICHAEL NAGLE*

August, 1976. Room 301. First day of law school, first year class, first introduction to contracts. First encounter with Alan D. Hornstein. Yikes!

Then, Alan virtually never stopped moving. The lectern platform was about 15'x8', with the lectern itself set in the middle. But it was merely a book holder, a stopping off place. Otherwise, he paced. Back and forth. Measured gait. Numbered steps. Like a caged leopard. Feral eyes. Spitting and hissing out questions and baring his fangs if the answer was not prompt or correct. Intimidating. Scary.

* Partner, Nagle & Zaller, P.C.; J.D., University of Maryland, 1979.

Or, at least that was the way he appeared to the 200 of us on the other end of those questions. 200 people who someday hoped to be lawyers—if we could just get through that damn class!

We learned quickly that one did not slack in Professor Hornstein's class, either in terms of preparation or in terms of mental agility when directly engaged by him. He was a master of the Socratic Method—but he was also a master of the sarcastic rejoinder when that methodology failed to elicit the correct thought process and response. (My apologies to non-lawyers, who may not appreciate the distinction.)

Alan engaged me that very first day of class. Having served ten years in the Air Force with two tours in Vietnam, I was just slightly less terrified than my classmates. Although I stayed with him through several questions, there came a time when I was unable to take the next step. Alan quipped that the quality of law student admitted that year was suspect. Unbelievably, I heard my own traitorous voice suggesting that perhaps the quality of available instruction was part of the problem.

There were literally gasps from my peers, and books were raised to cover faces all over the room. My immediate neighbor actually scooted his chair a few inches away from me, as if to avoid the debris once Alan's fiery gaze caused me to crash and burn. For Alan's part, a whisker twitched, and he informed me that I would be responsible for taking the lead on the next case—and perhaps every case the rest of the week.

That began an intellectual exchange that resulted in the development of mutual respect and friendship which, ultimately, led to us working together as co-authors of a lead article in the *Washington University Law Quarterly*. I signed up for every class taught by him at the time because I wanted the challenge of matching wits with him so that my skills and mental abilities might be enhanced by the experience. Indeed, I found that there were classmates who “hated Hornstein,” because he was uncompromising in his quest to make of each of us the best, most thorough and thoughtful lawyers possible, and I soon spotted the laziness and slothful thinking that was their wont—and his anathema.

Alan hired me as his research assistant during the summer between my first and second years, and I soon learned that he was every bit as tough with himself as with his students. We spent hours debating esoteric issues and looking at them from every possible angle—and even some that were highly improbable! My research ranged very far a field from the immediate subject of the book he was writing, just

in the off chance that a case on the outermost fringe of the subject might contain a nugget of useful information or a novel approach or analysis. Any such nugget was seized upon by Alan's very quick and insightful mind, x-rayed, cross-sectioned and subjected to biopsy, after which one could almost see his mind lay back and sigh with contentment, much like Garfield the cat after a big meal.

After graduation, we worked together on the *Washington University Law Review* article. Though we were no longer student and professor, the relationship stayed the same. You see, Alan always made me feel accepted as a peer, even when we *were* in a student-professor relationship, as, to him, one's credentials were to be found in one's intellect, curiosity, and desire to be the best possible at whatever one attempted.

Before our paths diverged, I also learned about Alan's love for Brenda, food, wine, puns, and double entendre, pretty much in that order. But he first loves the law and the teaching of law. He was good at it because he cared. His students became good lawyers because he cared—and because he was never satisfied doing less than his best. The result has been a huge impact on Maryland law, as his lessons have guided many who made that law in both the courts and the legislature. Alan, we will miss you. You may retire, but I know that mind will forever quest for excellence.