



Dubbed the "American
Tali-lawyer" by foes
for representing John
Walker Lindb,
Brosnahan had the
Constitution and his
convictions on his side.

The Man Who Hates Injustice

It's easy upon meeting Morrison & Foerster senior partner and San Francisco legend Jim Brosnahan to make the same mistake his courtroom opponents make about the man — thinking that he's predictable.

You might think, for example, that someone who received almost-daily death threats while defending the "American Taliban," John Walker Lindh, would be cautious and guarded, but Jim Brosnahan is open and sprawling. Or you might imagine that a man who has spent his career fighting for the underdog would be humorless, but Brosnahan laughs loudly, frequently and easily. The roar often comes without warning, with no build-up, just an explosion of knee-slapping volume. It's what it sounds like to be 72 and still taking huge gulps of life each day.

You might assume that a lawyer who has defended an escaped IRA prisoner and taken a stab at prosecuting President Reagan's secretary of defense would be on the front lines of every left-wing cause in an overwhelmingly left-wing town.

But, again, you'd be wrong. Armed only with his pocket Constitution, a bottomless well of intellectual curiosity and an inflexible sense of conviction, Brosnahan has built his 47-year career on individual cases rather than large-scale movements.

"I'm not a movement lawyer," he says. In conversation, Brosnahan marks time with a series of exclamations: "Yeah!" or "Uh-huh!" He has had 47 years of tilting at dragons and the occasional windmill, but he's not grown tired of it yet. He seems to have no "pause" button on his personal dashboard. Even in his comfortable chair, he is seldom in repose.

"What I mean is that a movement lawyer feels the movement is more important than the client," he says.

One of Brosnahan's individual clients, though, may sometimes represent part of a larger movement. That was the case when Brosnahan tackled the extradition woes of IRA member Kevin Barry Artt. Artt was one of 38 prisoners to escape from Northern Ireland's Maze Prison ("Left without proper documentation" is how I put it," Brosnahan says). Brosnahan, who expected a six-month case, threw himself into the cause, going to Belfast three times over the course of eight years, learning about Northern Ireland and, in some ways, himself. "It was amazing," he says. "The Ford Motor Company had a plant in Belfast at that time, and they had one Catholic worker. The rest were all Protestant. I suddenly realized what the Protestant Ascendancy was. It was like going back in the 16th century and understanding what my ancestors must have gone through."

After eight years of work on the case, the Good Friday Agreement of 1998 saved Artt and others from extradition. Brosnahan happily shows the letter he received from the British Government outlining the agreement. "I love this!" he booms.

Brosnahan is keenly aware of his Irish heritage. "To be born in Boston and be Irish is to be political," he says. "The Irish never give up." He's rangy and athletic, still carrying traces of the basketball and baseball player he was at Boston College, class of 1956. His eyes twinkle behind steel-framed glasses.

His corner office is cluttered with family photos, plaques, sports memorabilia. On one wall is a framed cartoon of him and John Walker Lindh, originally from *The Recorder*, standing together while people run screaming from them. Brosnahan's favorite worn, comfortable chair sits in a corner, all the better for him to sink into while contemplating constitutional issues, or to spring out of to make a point.

Mere anarchy is loosed upon the world and **Jim Brosnahan** fights back

by **LARRY ROSEN**

PHOTOGRAPHY BY LARRY MARCUS

He often refers to his beloved American Constitution. Brosnahan is not the first to carry a dog-eared mini-copy of the Constitution in his pocket, and he uses it to far less dramatic effect than either Sen. Robert Byrd, who has been known to rip the small book from his pocket during an argument, or Tom DeLay, whose copy, one would assume, is used to make far different points than those of Byrd or Brosnahan. Brosnahan keeps his to remind himself that, ultimately, every issue of law and governance leads back to the Constitution. He also uses it as an ice-breaker. "It's so interesting," he says. "A good conversation starter."

Though tied to no single movement, Brosnahan is not shy with his political opinions. His strong convictions will not allow him to settle for complacency. "I don't think a trial lawyer should really aspire to just be respectable," he says. "You just have to do what you think is right."

If you want, you can just sit back — perhaps even in his worn-out Archie Bunker chair, because he will offer it to you before taking it himself — and bask in the sum total of his 47 years as a trial lawyer. Brosnahan knows surprising things about his clients; for example, that John Walker Lindh has a terrific sense of humor. He

can tell you about former Oakland Raider Bill Romanowski, whose practice-field right hook cost teammate (and Brosnahan client) Marcus Williams his professional career. "He's pretty much a sociopath," says Brosnahan, typically removing the sugar coating before speaking. "He's the kind of guy who punches somebody and then wants everyone to feel sorry for him because his hand hurts." Ask Jim Brosnahan a question: He will answer.

As a man unafraid to take chances or represent unpopular clients, Brosnahan has faced more than his share of rabid opposition. Consider Brosnahan's most controversial case, the defense of John Walker Lindh. This case produced "a howl from the people that there be no trial, that there be no court, that he just somehow be summarily dispatched."

"That's un-American. That's wrong," says Brosnahan. "It's unconstitutional, and it's not the best side of people."

Like everyone else, Brosnahan first heard of Lindh's plight via the evening news. "I said to my wife, 'The kid's in a lot of trouble,'" he says. The following day the boy's father, Frank Lindh, contacted Brosnahan. After a long discussion with his partners at Morrison & Foerster, Brosnahan, whose long career has focused mostly on "standing up to forces that are trying to do something bad to my client," chose to represent Lindh.

Dubbed the "American Tali-lawyer" by foes, Brosnahan's participation in this case brought acutely negative response to him and his firm. "It got very scary," he says, "and there were death threats. We had bodyguards for a while."

And mountains of hate mail arrived. "You get the super patriot people who think they're the only patriotic people in the world. There was this crazy lawyer from Illinois who hinted that he and his group were going to take some kind of action against me." Brosnahan kept his cool with a little help from friends. "I never answered any of it, though I came close," he says. "Barbara out here [his secretary] would talk me out of it."

"John [Walker Lindh] was in the wrong place at the wrong time," Brosnahan continues. "The Bush administration wanted him to be a terrorist. He wasn't a terrorist. But they didn't have anyone else." Once found, Lindh quickly became a symbol in the War on Terror. "He became an object. The secretary of defense, the head of the Joint Chiefs of Staff, the president of the United States, all were saying negative things about him." Lindh, Brosnahan believes, was a young idealist in way over his head. "He goes to the front to be in the Taliban army against the Northern Alliance," Brosnahan says. "It had nothing to do with the Americans. Things moved quickly. He was found in this jail and his picture was plastered all over the world, including the Islamic world."

As a father himself — Brosnahan has three grown children, two daughters and a son — he found it easy to empathize with Lindh's parents. "I really identified with the pain of the parents," he says. "They're good parents. They stood by John."

Today, John Walker Lindh has approximately 15 years remaining on his sentence. His father continues to speak on his behalf, while Brosnahan works to seek a commutation of John's sentence. His description of the young Lindh sounds similar to one of any college-aged young man. "He reads a lot. Studies all kind of things. He's very bookish. He wants to get a degree in English literature."

But Brosnahan's practice is not all flashbulbs and death threats. The cases he chooses are limited only by the boundaries of what he finds interesting — which is basically everything. He tells of a case involving a Redding doctor charged with doing unnecessary cardiac procedures. "They really bushwhacked him," he thunders. In preparation for this case, Brosnahan

bought a few cardiology textbooks. As he helped halt the criminal case, he learned a few things about cardiology. "It was very interesting reading about plaque," he laughs. "I've gone to a totally different diet based on that case."

"One of the great benefits of this line of work is intellectual curiosity," he says. This is the key to Brosnahan's longevity and ability to endure. He claims to have had cases some might consider dull, but says, "They're not dull to me." Brosnahan charges into each case, each day confident that something will pique his interest. And since he is focused on clients rather than causes, he is able to easily move on to the next challenge, regardless of the outcome. "I know who I am," he says. "I'm a trial lawyer."

As for representing unpopular clients and cases, Brosnahan stays philosophical. "There are people who represent people who are despised at the moment [of their trial]. You know, I thought about this a lot during [the Lindh] case; there are a lot of public defenders who do that every day."

Brosnahan has been married for 47 years. His wife is an Alameda County Superior Court judge. They met at Harvard Law School. His children are grown and secure in their careers. Pictures of grandchildren dot his office, which is why he is concerned about the future. "Attitudes toward law and order have changed dramatically in this country. I don't know where it's going," he says. "It could get a lot worse. We have a war that never ends and could be stuck on this psychology forever."

"There's an authoritarian streak that's flowing right now and it's very scary," he says. During the Reagan/Bush-era Iran-Contra scandal, Brosnahan targeted then-Secretary of Defense Caspar Weinberger whose role in the scandal involved withholding evidence. Weinberger refused to give his detailed day-by-day notes to prosecutors. "He kept copious notes of every step [of Iran-Contra]," Brosnahan says. "He should have made them available when they were subpoenaed. He had them right in [his] office, but the concern was that Reagan would be impeached. The secretary of defense should know better than that."

During this time, opposition tried to accuse Brosnahan of playing politics. "They promoted me," he says, "from a minor Democratic contributor to the brains behind the Democratic party in California!"

Weinberger's defense attorney planned to call then-President George H. W. Bush to testify after his term ended on January 20, 1993. Somehow this information was deduced by the White House, Brosnahan says "... and now Bush, who had given 217 versions of where he was during Iran-Contra ...," made sure he wouldn't get subpoenaed. Prior to the end of his term, he pardoned six people, including Cap Weinberger. With that, the trial "went away."

"I wouldn't say I was bitter, but it left a bad taste," admits Brosnahan.

Brosnahan is a strong defender of lawyers, and he's appalled at the Bush administration's effort to damage trial lawyers. "I like trials, because trials have to do with what really happened," he says. "Politics has to do with the careers of politicians. Reality is only a starting point for politicians."

Brosnahan doesn't defend his profession as much as celebrate it. "I don't think you can have a democracy without a lot of very good trial lawyers," he says. "They're trained to stand on their feet and duke. You may be the president of the United States, but I don't agree with you."

He pauses to gather himself. "You're wrong, Mr. Bush! Wrong!" ♦