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THE LEGACY OF JUDGE FRANK M. COFFIN

*Peter Pitegoff**

“I want to be there,” Judge Frank M. Coffin told me, regarding the late afternoon meeting of the University of Maine School of Law’s Board of Visitors in 2009. He had dinner plans that evening and, pacing himself at close to ninety years of age, had opted earlier to forego the meeting. Reflecting on the agenda and key strategic issues facing the Law School, he changed his mind: “These are important issues, and I ought to be part of the discussion.” He was. True to form, he listened to a lively discussion for quite a while, then weighed in with modest comments—focusing the Board on practical goals, encouraging us with lyrical diction, and, although he would never characterize it as such, validating our strategy.

Judge Coffin had adopted the University of Maine School of Law as if it were his own. He was a committed friend to the Law School and served on the advisory Board of Visitors for almost two decades. Like so many others, I felt his keen personal commitment as well, with his periodic calls and visits, his steady counsel and encouragement. Before arriving in Maine, I had known of Judge Coffin. Little did I anticipate that he would so enrich my experience as Dean at Maine Law. He remains a role model to so many of our graduates and leaves an inspiring legacy to the lawyers of tomorrow. It is thus a fitting honor for the *Maine Law Review* to publish this symposium issue.

In his 1984 publication *A Lexicon of Oral Advocacy*,¹ Judge Coffin described excellence: “Not a single quality but the impression resulting from the mix of qualities—all good—of an advocate.” Judge Coffin lived these qualities of excellence and more. His wisdom and intelligence, his commitment to social justice and public service, his kindness and wit, his personal warmth and good cheer—he reflected all of these attributes in a wonderful mix of excellence. This issue of the *Maine Law Review* presents a window into the world of Judge Frank M. Coffin, with admiring and caring accounts from his law clerks, his judicial colleagues, and his friends and colleagues in public service.

The Honorable Stephen Breyer, Associate Justice of the United States Supreme Court, introduces this symposium issue with a tribute that captures Judge Coffin’s unique character. They served together on the United States Court of Appeals for the First Circuit. “For me,” writes Justice Breyer, whose appointment to the First Circuit was in 1980 while Coffin was Chief Judge, “that court has always showed me what a great court could be . . . [,] that through example taught many of us how judges can, and should do their job.”

As recounted in this volume, Judge Coffin served in all three branches of the federal government, which informed his career in the judiciary. Born in Lewiston, Maine, in 1919, he was educated in Lewiston public schools and went on to earn degrees from Bates College, Harvard Business School, and Harvard Law School. He clerked for Judge John D. Clifford, Jr. in the United States District Court in Maine, served as corporation counsel in Lewiston, and

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1. FRANK M. COFFIN, *A LEXICON OF ORAL ADVOCACY*, 60 (1985).

engaged for several years in the private practice of law. His commitment to public service spanned a wide-ranging career, including Naval service in the Pacific during World War II, a role as Democratic state party chairman and a leader (with Senator Edmund S. Muskie) in reinvigorating Maine's Democratic Party in the 1950s, and an unsuccessful candidacy for Governor of Maine in 1960.

Frank Coffin held positions as a member of Congress (1957-1961), Managing Director of the Development Loan Fund and Deputy Administrator of the Agency for International Development (1961-1964), and United States Representative to the Development Assistance Committee of the Organization for Economic Cooperation and Development in Paris (1964-1965). He was appointed to the United States Court of Appeals by President Lyndon B. Johnson in 1965, and served as Chief Judge from 1972 to 1983. Judge Coffin assumed Senior status in 1989 and retired from the bench in 2006.

These wide-ranging experiences all contributed to Judge Coffin's "special sensibilities" as described here by Judge Robert Katzmann of the United States Court of Appeals for the Second Circuit. During his tenure as federal judge, Coffin served for a period of time as chair of the Committee on the Judicial Branch for the United States Judicial Conference. Judge Katzmann writes of their work together, earlier in his career, where he witnessed Judge Coffin's talent in moving the Committee on the Judicial Branch to a sustained examination of the relationships between the judiciary and Congress and in "creating a coalition of business, media, and legal associations to enhance public understanding of the courts." Their collaboration continued with the 1986 co-founding of the Governance Institute, a non-profit organization in Washington, D.C. dedicated to improving the effective function of and among branches of the federal government. "What made Judge Coffin so effective," writes Katzmann, "was not simply the power of his ideas or his wonderful capacity to express himself . . . It was also his understanding of people, all manner of humanity."

Don Nicoll takes us back to Frank Coffin's early career, the "political years" full of rich experiences that so influenced his perspective as a judge. Nicoll, later a close aide to Senator Edmund S. Muskie, was executive secretary for the Maine Democratic Committee (1954-1956) when Coffin was chair, and served as Coffin's administrative assistant in Congress from 1957 to 1960. "Throughout his career," writes Nicoll, "[Coffin] demonstrated that the art of politics was a noble calling, when dedicated to the cause of public service." Although more the result of circumstance than intention, Coffin's appointment as federal judge followed immediately after his journey through politics. In retrospect, and as detailed here by his longtime friend and colleague, that path was indeed a "prelude to a judgeship."

Judge Levin Campbell served with Judge Coffin on the United States Court of Appeals for the First Circuit and succeeded Coffin as Chief in 1983. In this volume, he draws us into the collegial "Coffin's Court" and paints a picture of a master at building consensus. "A chief judge, unlike a CEO or military leader, is first among equals[.] . . . [H]e or she needs the cooperation of fellow-judges—the very sort of voluntary support Coffin excelled in nurturing." Judge Campbell provides texture and depth in his description of the "sensible and effective

leadership that left an imprint lasting for many years after [Coffin] had ceased being its Chief.”

The cohesive and collaborative workings of “Coffin’s Court” were all the more effective due to Judge Coffin’s sensitivity and connection beyond the bench and the bar. Judge Kermit Lipez, appointed to the First Circuit Court of Appeals in 1998, counts Judge Coffin as his “neighbor, friend, colleague, and mentor.” Judge Lipez knows well the wide reach of his judicial colleague, as they worked together in many ways to promote the public interest. Judge Coffin, for instance, was the founding chair of the Justice Action Group in 1995, an access to justice coalition to assure and enhance legal services for Mainers in need.² Judge Lipez worked with Judge Coffin in these efforts and succeeded him as chair of the Justice Action Group, which has contributed dramatically to access to justice in Maine and continues today (chaired by Maine Supreme Judicial Court Associate Justice Jon Levy) as an active catalyst for the public good.³

In his review here of two Coffin books on the appellate process—*The Ways of a Judge: Reflections from the Federal Appellate Bench* and *On Appeal: Courts, Lawyering and Judging*—Judge Lipez adds nuance to our understanding of Judge Coffin’s commitment to the public and perception of a judge’s accountability to multiple constituents. He observes in Judge Coffin “a keen awareness of the need to legitimize his work—and the work of all judges—to the public at large.” Judge Coffin furthers this goal in these two accessible books that invite the reader into the introspective process of appellate decision-making. With stakes so high for litigants and the public, explains Judge Lipez, Coffin’s books demystify and humanize the work of an appellate court, and—with signature Coffin modesty—justify the awesome responsibility and impact of the judiciary.

William C. Kelly, Jr., President of Stewards of Affordable Housing for the Future, served as a law clerk to Judge Coffin during the 1971-1972 term of the First Circuit Court of Appeals. In this volume, Kelly explores the evolution of the concept of “workability” in the jurisprudence of Judge Coffin. He harkens back to a 1971 law review article in which Judge Coffin, who knew well the challenges of getting things done outside the judiciary, defined *workability* as “the extent to which a rule . . . can be pronounced with reasonable expectation of effective observance without impairing the essential functioning of those to whom the rule applies.”⁴ He examines how the Judge applied and refined this concept over the course of years and in changing contexts. Judge Coffin found his way to a place both practical and principled that joined a sensitivity to individual rights with an equal sensitivity to administrative demands. Kelly underscores a life lesson from Judge Coffin, that judicial legitimacy requires “a level of modesty and caution, . . . not the caution of timidity but the caution of experimentation as a way of protecting individual rights in changing times.”

2. See Frank M. Coffin, *A History of the Justice Action Group – October 1995 – May 2000*, 15 Me. Bar. J. 248 (2000).

3. See <http://www.mbf.org/justice.htm> for information about Maine’s Justice Action Group.

4. See Frank M. Coffin, *Justice and Workability: Un Essai*, 5 SUFFOLK U. L. REV. 567, 571 (1971).

Aside from his prolific writing,⁵ Judge Coffin's robust record of public speaking extended his reach well beyond the courtroom and furthered his education (and entertainment) of the public. Self-described as "secular preaching" and a "sideline to judging," his corpus of speeches comprises yet another compelling portrait of ideas and artistry. Justice Daniel Wathen and Barbara Reigelhaupt have collected all law-related speeches by Judge Coffin during his judicial career, an astounding number over 125 and, even more amazing, with little substantive overlap among them. Daniel Wathen is former Chief Justice of the Maine Supreme Judicial Court, and Barbara Reigelhaupt, now permanent clerk to First Circuit Judge Kermit Lipez, served as Judge Coffin's law clerk for twenty-two years. They offer in this volume "a sampling of the genius reflected in the full set."

Hardly a "sideline," these speeches capture another piece of the whole cloth and the depth and range of Frank Coffin. Wathen and Reigelhaupt have uncovered "a treasure trove of thoughts on the judiciary as an institution, the law, judging, the legal profession, legal education and legal luminaries past and present." The speeches reflect many themes—e.g., the "meaning of a collegial court and the threats to collegiality"; "the need to educate the citizenry and the media, and to engage them in preserving our unique and time-tested legal traditions"; and "practicing law in the grand style, using the law as a tool for social progress." The speeches "are worthy of study purely as examples of communication, advocacy, speech-craft, composition, humor and whimsy." Wathen and Reigelhaupt write of his diligent (and at times mischievous) research tailored to each occasion and "his ability to turn a small bit of information into a witty oratorical gem." The University of Maine School of Law and its Garbrecht Law Library are working now with Justice Wathen and Barbara Reigelhaupt to publish the entire body of work, a preview of which appears in this volume.⁶

With all due respect to the esteemed and talented individuals invited to Maine in recent years to deliver the Annual Frank M. Coffin Lecture on Law & Public Service, Judge Coffin's introduction each year was one of the major attractions for serial attendees. The Frank M. Coffin Lecture on Law & Public Service is the premier public event in the annual calendar of activities at the University of Maine School of Law. Two decades ago, the lecture series was created at the Law School and endowed with thoughtful and loyal participation by his community of former clerks, an outstanding and accomplished group in their own right. It is no surprise that the Judge counted his sixty-eight former clerks in his close circle of colleagues and friends, almost like family.

Clerking for the Judge was "an incomparable experience both personally and

5. Frank Coffin is the author of four books: *WITNESS FOR AID* (1964); *THE WAYS OF A JUDGE: VIEWS FROM THE FEDERAL APPELLATE BENCH* (1980); *A LEXICON OF ORAL ADVOCACY* (1985); *ON APPEAL: COURTS, LAWYERING AND JUDGING* (1994). He privately published his memoirs in three volumes, thus far for a limited audience, and has published numerous articles and essays. This, of course, is in addition to the roughly 2,600 opinions he wrote during his career as a judge.

6. The entire collection of Judge Coffin's legal papers is archived at the University of Maine School of Law's Garbrecht Library, and his political and other papers are archived at the University of Southern Maine's Glickman Library.

professionally” in the words of former clerks Barbara Riegelhaupt and Kaighn Smith, Jr., a partner at the law firm Drummond Woodsum. In this issue, Riegelhaupt and Smith collect further recollections about Judge Coffin’s relationship with his clerks from their fellow clerks J. Peter Byrne, Professor of Law at the Georgetown University Law Center, and Robert Reich, Professor of Public Policy at the University of California, Berkeley, and former United States Secretary of Labor, and from the Judge himself. From Judge Coffin’s perspective, working closely with his clerks was “one of the priceless perquisites of being a judge . . . , my guarantee against narrowing horizons [and] a continuing fountain of youth.”⁷ Peter Byrne recalls how Judge Coffin “stirred the souls of many clerks through his example of professional attainment and public service harmonized with personal creativity, family, affection, and pervasive good humor.” Judge Coffin “widened and extended all the boundaries of living,” writes Robert Reich. “[H]e lives on within all of us, bequeathing to us an enduring model for how to live.” The Coffin clerks have gathered periodically through the years at the Judge’s invitation, and they still participate in the Coffin Lecture selection process and events.

The Annual Coffin Lecture continues today to reflect the Judge’s values and dedication to law and public service. The late Joseph L. Rauh, Jr., esteemed leader in civil rights, civil liberties, and access to justice, prepared the first Coffin Lecture as delivered for him posthumously in 1992 by his wife Olie W. Rauh, by his son Michael Rauh, and by Supreme Court Associate Justice William J. Brennan. Each year since then, a distinguished Coffin Lecturer has visited the University of Maine School of Law to lecture publicly and to spend time with the Law School’s students, faculty, and extended community.⁸

Well in advance of each lecture, Judge Coffin would join with several of his former clerks, several Maine Law School professors, and the Dean as a selection committee for upcoming Lecturers. “This is not about titles and fame,” he would remind us, but instead about law and public service and reflecting good values. The 2010 Coffin Lecturer was Stephen H. Oleskey, a Boston-based partner at the international law firm WilmerHale, and a widely respected leader in public service. In addition to his private practice in complex civil litigation and his many leadership roles in legal services and justice access organizations, Oleskey was co-lead counsel in a successful habeas corpus challenge on behalf of six Bosnian

7. 3 FRANK M. COFFIN, *The Judicial Years*, in LIFE AND TIMES IN THE THREE BRANCHES 226 (2010).

8. The Annual Frank M. Coffin Lecture on Law and Public Service at the University of Maine School of Law has included the following distinguished lecturers: Joseph L. Rauh, Jr (1992) (posthumously); Professor Arthur Schlesinger, Jr. (1993); Judge Patricia M. Wald (1994); United States Solicitor General Drew S. Days III (1995); Alvin J. Bronstein, Director, ACLU National Prison Project (1996); Robert Reich, United States Secretary of Labor (1997); United States Supreme Court Associate Justice Ruth Bader Ginsburg (1999); Professor Chai Feldblum, Georgetown University Law Center (2001); Judge Cruz Reynoso, University of California Davis School of Law (2002); Scott Harshbarger, Common Cause President (2003); Justice Richard J. Goldstone, Constitutional Court of South Africa (2004); Eliot Spitzer, New York State Attorney General (2005); Kenneth R. Feinberg, Federal September 11th Victim Compensation Fund Special Master (2007); New York State Chief Judge Judith Kaye (2008); Howard University School of Law Dean Kurt L. Schmoke (2009); Stephen Oleskey, WilmerHale (2010); and Jonathan Lash, World Resources Institute (2011).

detainees held indefinitely at Guantanamo Bay, Cuba. His values and experience impressed Judge Coffin as a robust combination of excellence in private practice and public service, and the Judge spoke in favor of Stephen Oleskey in what turned out to be his last meeting with the Coffin Lecture Selection Committee. An adaptation of Mr. Oleskey's lecture appears in this volume, significant not simply in substance but also because it represents the first Coffin Lecture without Judge Coffin.

The Coffin Lectures have always been major public events, but in many ways they were and continue to be a family affair. Coffin family members and friends are always present at the Lectures. For years, the Judge and his wife, Ruth Coffin, would entertain the Lecturer and selected guests for dinner in their home. They would provide a warm welcome, good food, and hours more of post-Lecture conversation following a long day. More often than not, the Coffin Lecturer would be an overnight guest at the Coffin home, filled with the Judge's books and the paintings, prints, and sculptures he created in his workshop downstairs. Frank Coffin was a prolific sculptor and had carved dozens of pieces—dolphins, owls, seals, a penguin, a camel, and more—out of wood or stone.

The family tradition continues. Prior to his 2010 lecture, Stephen Oleskey accepted a gracious invitation from Ruth Coffin to join her in the Coffin home for refreshment and conversation and the palpable presence of the Judge, felt through conversation with Ruth, their daughters and son and a granddaughter, and through the artifacts and aura in the seaside home. Family was preeminent in the remarkably balanced persona of Frank Coffin. As Judge Campbell recalls from some time ago, "His greatest success, one of the few he was always happy to talk about, was his marriage to another Bates student, Ruth Ulrich [Coffin], his companion and closest friend throughout life."

On May 8, 2010, hundreds of friends and admirers joined the Coffin family in Portland, Maine, to celebrate Judge Coffin and his remarkable life.⁹ People traveled from around the globe to share stories, to support one another, and truly to celebrate "how fortunate we were to have him in our time." With this symposium issue dedicated to Judge Frank M. Coffin, the *Maine Law Review* joins in amplifying his inspiring legacy.

9. See Trevor Maxwell, *Hundreds Expected to Celebrate Life of Late Judge Frank M. Coffin*, PORTLAND PRESS HERALD, May 7, 2010.