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Frank M. Coffin

L. Damon Scales Jr.

Richard E. Poulos

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# HONORABLE JOHN D. CLIFFORD, JR.

## A MEMOIR BY HIS THREE LAW CLERKS

*Frank M. Coffin,\**

*L. Damon Scales, Jr.,\*\**

*Richard E. Poulos\*\*\**

The domain over which United States District Judge John D. Clifford, Jr. presided from 1947 until his death in 1956 was very different from what it is today. Anyone could walk into the federal courthouse in Portland. Security guards were unknown, and lawyers, litigants, and passers-by were free to come and go. A leisurely air pervaded all the court offices. There was no hurry. This was an era when there were only two lawyers in the United States Attorney's office: the United States Attorney and his one assistant.

The judge was in his chambers from ten to four every weekday except Friday. There was time to confer about pending cases, time to craft decisions, and still plenty of time to receive friends and visit together.

One week each year the court moved to Bangor, and occasionally the judge might be assigned to sit in the circuit court in Boston or in another district court. Once, at the time the communist trials were going on before Judge Medina in the Southern District of New York, Chief Judge Knox recruited Judge Clifford to hear admiralty cases there.

Judge Clifford had prepared for the law at Bowdoin College and at Harvard and Georgetown law schools. In twenty years of private practice with his brother William Clifford in Lewiston he had become known as one of Maine's leading trial lawyers. His appointment to the federal bench by President Truman capped fourteen years of service as the United States District Attorney for Maine.

The judge was a great block of a man, who could easily dominate the room. He had a booming gravelly voice and a mile-wide smile. He was built in proportion to the great desk in his chambers. He still looked the part of the tackle who helped take Lewiston High School's football team to the Maine state championship in 1906.

In spite of his bulk he was light on his feet. He had done some boxing and had sparred with his friend Gene Tunney before Tunney became world heavyweight champion. When Tunney was in Maine he came to see the judge.

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\* Senior Circuit Judge, United States Court of Appeals for the First Circuit.

\*\* Retired Judge, Maine District Court.

\*\*\* Graduate of Bowdoin College and Harvard Law School; admitted to Maine Bar 1951; United States Bankruptcy Judge until 1975; current practice concentrating in commercial litigation.

The judge also numbered among his friends John Ford, the famous movie director, and United States Supreme Court Justice Tom Clark. Justice Clark had been Attorney General when Judge Clifford was United States Attorney; they had been on at least one hunting trip together in northern Maine.

Always courteous, Judge Clifford exercised his authority quietly, seldom using the full strength of his voice. He was not impressed by pomp, and he did not seek fanfare.

Every case in the district court, whether large or small, came before Judge Clifford. He was the only federal district judge for Maine; the United States Commissioner was not empowered to hear minor cases. The judge heard major matters of anti-trust law, patent infringement, and corporate infighting, as well as charges of carrying a rifle in Acadia National Park and of using federal seed potatoes for cattle feed.

Of his eighty-odd published opinions about a third dealt with civil issues and about a sixth each with federal regulatory matters, habeas corpus, and bankruptcy cases. The remainder were divided about equally among labor issues, admiralty cases, federal taxes, and criminal matters. Suppression of illegal drugs was not a concern in those days.

Judge Clifford's most often cited opinion was *Pocahontas Terminal Corp. v. Portland Building and Construction Trade Council*<sup>1</sup>. His decision determined that federal law governed labor disputes involving interstate commerce to the exclusion of state law and that the federal court had jurisdiction to hear an action removed from the state court seeking to enjoin picketing of an oil terminal.

The judge was respected for his fairness. Although he was sociable by nature friendships played no part in his decisions. To each case he brought a scrupulous attention to facts, a realistic assessment of the equities, and a focus on a sensible result. He insisted that every major argument advanced by counsel be summarized carefully and answered definitely in the decision. Never did he brush aside any argument with a conclusory declaration. Moreover he always made certain that his findings and conclusions were clear, unambiguous, and easy to understand. Simple words were his choice rather than resonant "legal-sounding" ones.

Judge Clifford made extensive use of pretrial conferences. After carefully reviewing a case with counsel he often indicated how he was leaning on a particular issue. He always encouraged serious settlement negotiations; as a consequence many cases were resolved by settlement at the conference.

He was the first judge of any court in Maine to have the services of a law clerk. He schooled his clerks in the value of thorough prep-

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1. 93 F. Supp. 217 (D. Me. 1950).

aration, particularly of the facts. He repeatedly pointed out that it is the attorney who has a full grasp of the facts who will generally prevail, assisting the court to make a correct decision.

Judge Clifford's law clerks enjoyed more than the example of the judge's careful work habits and high standards. The judge might take the clerk to dinner at his club or to a seat near the ringside at a boxing match. The clerk might be asked to give the address to a class of newly naturalized citizens. As a special bonus there was the judge's fund of stories from his trial days as a private lawyer and public prosecutor. It was a privilege to clerk for such a man, a man who contributed to the tradition of excellence that undergirds Maine's federal district court today.

