The National and International Outreach of Justice Vincent L. McKusick

Roswell B. Perkins

Follow this and additional works at: https://digitalcommons.mainelaw.maine.edu/mlr

Part of the Courts Commons, Judges Commons, Jurisprudence Commons, and the Legal Profession Commons

Recommended Citation
Available at: https://digitalcommons.mainelaw.maine.edu/mlr/vol43/iss2/3
THE NATIONAL AND INTERNATIONAL OUTREACH OF JUSTICE VINCENT L. McKUSICK

Roswell B. Perkins*

From his outpost in the northeast extremity of the United States, Justice Vincent L. McKusick has sallied forth to make extraordinary contributions to national and international organizations. In our documentation of his achievements in relation to the jurisprudence and administration of justice in the State of Maine, we would be sorely remiss if we did not also record the out-of-state impact of this remarkable jurist.

The American Law Institute

The American Law Institute, now in its sixty-eighth year, has been honored to have Justice McKusick as a member for three full decades, or nearly half of its life span, and a member of its Council for twenty-one years. The rewards to the Institute from having attracted Justice McKusick's interest and loyalty, while he was still a busy Portland practitioner, have been rich indeed.

Speaking personally, I was delighted to share in the welcoming of Justice McKusick to membership on the Council in 1969. I had known Vince from our days overlapping as members of the staff of the Harvard Law Review, and had observed, during the months following my graduation, his effective leadership as President of the Review in 1949-50.

In 1977, after Vince's two years of clerking and twenty-five years of very active and successful practice in one of New England's finest law firms, we greeted with enthusiasm the news of his elevation to the post of Chief Justice of the Supreme Judicial Court of Maine.

The American Law Institute was a "natural" as a vehicle for harnessing the talents and experience of Justice McKusick. The purposes of the Institute, as stated in its Certificate of Incorporation, are "to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work."

In recent decades, a major component of the work of the Institute, which had initially focused principally on the common law and the Restatements of the common law, has been the drafting of statutory materials. One of the major statutory projects of the Institute was the preparation of a Federal Securities Code, under the leadership

of Professor Louis Loss of the Harvard Law School as Chief Reporter. At Professor Loss's suggestion, made with a view to gaining the insights of a nonspecialist in the securities field, new Council member McKusick was designated an Adviser to that project when it was launched in 1969. The project lasted for nine years, extending one year beyond Vince's elevation to the bench. During that period Vince was a loyal participant in a long series of meetings of advisers and consultants, and brought to bear on the subject a fine combination of analytical skills, perspective, and common sense.

In 1984 Justice McKusick was designated an Adviser for the Restatement (Second) of Property (Donative Transfers), a monumental work of which Professor A. James Casner, also of Harvard Law School, was the architect until June of 1990. During this period Justice McKusick was again a key contributor, reading all drafts with care and making useful suggestions, both substantive and editorial. Since Professor Casner's retirement from the Reportship (and his subsequent demise in August of 1990), Justice McKusick's wise counsel has assisted in the transition of the burdens to a new Reportorial staff.

A demanding project for the American Law Institute in the last decade has been the one entitled "Principles of Corporate Governance: Analysis and Recommendations." The outpouring of intellectual activity and critical comment that this project has generated has required patience, perseverance, and hard work on the part of the Council. Justice McKusick, drawing upon his own solid experience as a practitioner and jurist, has constantly provided balance and pragmatism to the Council debates.

Presiding at Council meetings provides me with a unique opportunity to study the differing styles of the Council members as they chew on the intellectual meat set before them. No style appeals to me more than that of Justice McKusick. Some of its elements are: (1) total, riveted attention (a yawn or a sleepy eye would be unthinkable); (2) an erect physical posture (as if clarity of thought is surely in direct proportion to the precision of spine alignment); (3) adherence to what seems to be a privately held precept that, no matter how informed one may be on the issue at hand, it is better to let others speak first; (4) a keen sense of strategic timing as to when to strike; and (5) unerring aim when the arrow of comment is finally released, to the extent that other contestants are likely to look for new and different targets from the one just skewered.

A happy thought at this time for the American Law Institute is that retirement from the bench may release a larger segment of Justice McKusick's working hours for the grist of the Institute's mill. Surely we shall be an insistent competitor for those hours.
Commissioners on Uniform State Laws

Closely related to Justice McKusick's contributions to the American Law Institute are his efforts in the period from 1968 to 1977 devoted to the improvement of uniform state laws. Here, again, his talents were effectively harnessed in the cause of the constructive evolution of statutory law on a nationwide basis.

In 1968 Justice McKusick was appointed by Governor Curtis as one of Maine's three Commissioners on Uniform State Laws, and he held that post for eight years. In the period 1975 to 1977 Vince served as Secretary of the National Conference of Commissioners on Uniform State Laws. But for his elevation to the bench in Maine, he would surely have moved on to be Chairman of the Conference.

During Justice McKusick's tenure as a Maine Commissioner and as Secretary of the Conference, the Commissioners tackled such significant uniform or model statutes as the Class Actions Act, the Consumer Credit Code, the Land Transactions Act, the Marriage and Divorce Act, and the Motor Vehicle Accident Reparations Act. Vince served as chairman of the committee that drafted the Uniform Jury Selection and Service Act, and also as Chairman of the Review Committee on the Uniform Rules of Criminal Procedure. The Jury Selection statute pioneered in many directions, particularly in broadening the base of selection for jurors and sharply curtailing the categorical exemptions and bases for excuses from service.

Conference of Chief Justices; National Center for State Courts

By virtue of his post in Maine, Justice McKusick in 1977 became a member of the Conference of Chief Justices, which consists of the chief judicial officer in each state and five territorial jurisdictions. His effectiveness on behalf of the organization was reflected in his being elected to the Board of Directors in 1980, as President-elect for the year 1989-90 and as President for the current year of 1990-91. The functions of the Conference of Chief Justices are numerous, but they include being a forum for discussion of common problems in court administration, the development and promulgation of improved standards and procedures in court administration, and the dissemination of knowledge concerning these areas.

A vital function of the Conference of Chief Justices, along with the coordinate Conference of State Court Administrators, is to supervise the operations of the National Center for State Courts headquartered in Williamsburg, Virginia. The National Center is a nationwide resource for state court improvement—a nonprofit organization serving the needs of the nation's state courts through research, education and training, information services, and direct technical assistance. The National Center serves as Secretariat to the Conference of Chief Justices. Chief Justice McKusick became a
member of the Board of Directors of the Center in 1988 and, coterminous with his service in the leadership ranks of the Conference, became Chairperson-elect of the Center's Board of Directors in 1989 and currently serves as Chairperson.

Through the Conference and the Center, Justice McKusick has been in a particularly advantageous position to serve the objectives of a strong system of state courts and well-trained state judiciaries.

Judicial Conference of the United States

Yet another national organization which has enjoyed the constructive involvement of Justice McKusick is the Judicial Conference of the United States, the governing body of the federal court system. Among its particular concerns are the rules of procedure and matters of administration in the federal courts, including the maintenance of good working relationships with the state court systems.

From 1982 to 1987 Justice McKusick was a member of the Federal-State Relations Subcommittee of the federal Judicial Conference, and from 1987 until late 1990 he served on the Federal-State Jurisdiction Committee.

Justice McKusick's particular interest in improving relations between the state and federal courts has borne fruit during his terms as President-elect and President of the Conference of Chief Justices. On September 10, 1990, an unprecedented joint meeting of the Conference of Chief Justices (i.e., the state court leaders) and the Judicial Conference of the United States (i.e., the federal court leaders) convened in Washington. Both conferences approved the creation of a National Judicial Council of the State and Federal Courts, comprised of four judges from each system. The new Council has been charged with nationally coordinating the efforts of local state and federal judicial councils and addressing national issues of mutual concern to the two court systems. The Conference of Chief Justices under Justice McKusick's leadership also assisted the Judicial Conference of the United States in sponsoring the Fifth International Appellate Judges Conference held in Washington on September 11-14, 1990. Some forty state chief justices attended that international conference that drew to Washington the highest judicial officers of approximately ninety foreign countries.

American Bar Association

Justice McKusick's energies have enriched the American Bar Association in a variety of capacities.

The first of these was as a member and then Chairman, in the years 1965-1971, of the ABA's Standing Committee on the Rules of Federal Procedure. This committee attracted the participation of many of the country's most able minds in the field of federal judicial procedure.
The second channel of support Vince gave to the ABA was through his nine-year service in the 1970's as a member of the Board of Editors of the ABA Journal, the principal publication of the ABA—a service that included one year as Chairman of the Board.

The third capacity of the Justice's ABA service was his four-year tenure in the House of Delegates of the ABA, in the years 1983-1987, as the Delegate representing the Conference of Chief Justices.

American Bar Foundation

A sister organization of the American Bar Association is its research counterpart, the American Bar Foundation. The American Bar Foundation is the preeminent organization for conducting empirical studies of the administration of justice, the legal profession, and the role of law in our society. The studies of this body, including sophisticated field studies, have heightened the knowledge of the bar and the bench for thirty-five years, both on substantive legal matters and on the functioning of our legal system. For the decade 1977-1987 Justice McKusick served as a member of the Board of Directors of this organization, along with many of the most distinguished leaders of the American Bar.

International Activities

The outreach of Justice McKusick in recent years has had an increasingly international aspect.

In 1978 Justice McKusick traveled to China in a twelve-person American Bar Association delegation making a study of the judicial system (limited as it was) of the People's Republic of China.

In two later years, 1983 and 1988, Justice McKusick led delegations of United States judges, under the auspices of the People-to-People Program, to visit, respectively, the People's Republic of China and the Soviet Union. These visits provided an opportunity to impart to the leaders of the judiciary of those two vast countries some of the knowledge and experience of the United States judiciary. At the same time, the United States visitors were given the opportunity to understand where these two countries stood in terms of movement in the direction of an independent judiciary.

Justice McKusick, for five years starting in 1981, represented the state chief justices on the State Department's Advisory Committee on Private International Law. That committee has broad responsibility for advising the State Department in regard to proposed treaties, conventions, and other international agreements affecting private substantive and procedural law.

Conclusion

Lincolnesque frames do not fit well in airplanes. Nevertheless, Justice McKusick must have become one of the Portland airport's
most familiar figures, as a result of his dedication to the improvement of the rule of law, nationally and internationally, and his willingness to assist a wide range of organizations that support that objective.

How all of this has been packed into a career so intensely devoted to the State of Maine itself remains incomprehensible to this writer. However, the record is there, and the witnesses throughout the United States and abroad are legion.

The bar and the judiciary, inside and outside our national borders, are grateful for the fact this stalwart son of the Pine Tree State has had both a vision that encompassed distant horizons and the energy, drawn on with unstinting selflessness, to carry him there.