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THE JUDGE AND HIS CLERKS

*Barbara Riegelhaupt & Kaighn Smith, Jr.**

In his memoir, *Life and Times in the Three Branches*, Judge Coffin recounts the history of the institution of the law clerk and observes, “I was the first such creature Maine had seen.”¹ He served as a clerk from April 1947 to June 1949 for United States District Court Judge John D. Clifford, working in the same chambers that he would later inhabit as a judge. Over the course of his more than four decades on the Court of Appeals, Judge Coffin would have sixty-eight clerks of his own.

Those of us lucky enough to be in that family of sixty-eight had an incomparable experience both personally and professionally. One of our number, Peter Byrne, captured the essence of a Coffin clerkship in an essay that was published in this journal in 1991. When asked about including a description of clerking for Judge Coffin in this tribute issue, we immediately thought of Peter’s piece, which remains a perfect reflection of the Coffin clerkship experience and the special relationship we each had with him. We have bracketed Peter’s piece with two shorter items: at the outset, the Judge’s own words about law clerks and, at the close, the words of Robert Reich shortly after the Judge’s death, voicing sentiments we clerks all shared.

In my judgment, the opportunity to work closely with talented young lawyers for a year or more is one of the priceless perquisites of being a judge. Law clerks bring to chambers several precious gifts. To begin, they bring a freshness, openness, and curiosity that flushes out a judge’s tired mental arteries. Then, if a judge has lost the edge in “thinking like a lawyer,” they restore him to rigorous standards of analysis and also share new doctrines, critiques, and insights of some outstanding members of law faculties in the schools they have just left. But beyond all this, they bring themselves, their background, experiences, idealism, enthusiasm, and, above all, their friendship. They are not only my guarantee against narrowing horizons, but, as one of my former clerks put it, a continuing fountain of youth.²

Judge Frank M. Coffin

* Barbara Riegelhaupt served as Judge Coffin’s law clerk for twenty-two years and is now a career law clerk for Judge Kermit Lipez, Judge Coffin’s colleague on the United States Court of Appeals for the First Circuit. Kaighn Smith Jr. served as law clerk to Judge Coffin for the 1987-1988 clerkship year. He is a shareholder at Drummond Woodsum MacMahon in Portland, Maine, where he represents Indian tribes throughout the country. His new book, *LABOR AND EMPLOYMENT IN INDIAN COUNTRY* (2011), is jointly published by the Native American Rights Fund and Drummond Woodsum.

1. 3 FRANK M. COFFIN, *LIFE AND TIMES IN THE THREE BRANCHES* 225 (2010). He presented a more detailed version of this history in *ON APPEAL: COURTS, LAWYERING, AND JUDGING* (2004), at pages 71-72.

2. *LIFE AND TIMES*, *supra* note 1, at 226.

JUDGE

*J. Peter Byrne*³

Becoming Judge Coffin's law clerk must be the most fortunate of conclusions to a legal education. His judicial craftsmanship sets a standard for thoughtful professionalism that a young lawyer can never outgrow. In those salt-scented and book-lined chambers, briefs were painstakingly and critically read, precedents and statutes honestly interpreted and challenged to yield just results, opinions written and rewritten to convey the significance of a small distinction or the applicability of a large principle.

The Judge's clerks learn these virtues not just from observation but also from participation. No other professional role approximates the heady blend of tutelage, partnership, adoption, and public responsibility that comes to his law clerks. You are startled to find yourself seated cross-legged in a massive lumpy leather chair arguing hammer and tongs about constitutional restraints on the grand jury (a subject that had never crossed your mind until the previous week) with the finest appellate judge in the nation, who not only tolerates your presumption but draws you out, gently draws your attention to the flaws in your thinking, wins your heartfelt agreement to his proposed solution, and dismisses you with thanks and commendation echoing in your ears. Judge Coffin, who has been the kindest of judges in print to law clerks, in his *The Ways of a Judge*, compared the judge-clerk interaction to that between a master and his apprentices in a Renaissance art studio. But only the most exceptional *maestro* would nurture his apprentices with the affection and frank interest we were given. One afternoon, each of the three clerks was working in chambers on a different case raising an absorbing constitutional question, while Judge was buried in his office working on a pair of ponderous marine insurance cases that he had kept entirely for himself because of our total ignorance of that worthy subject; the irony of this division of labor elicited from him only good-natured wisecracks about reducing our salaries.

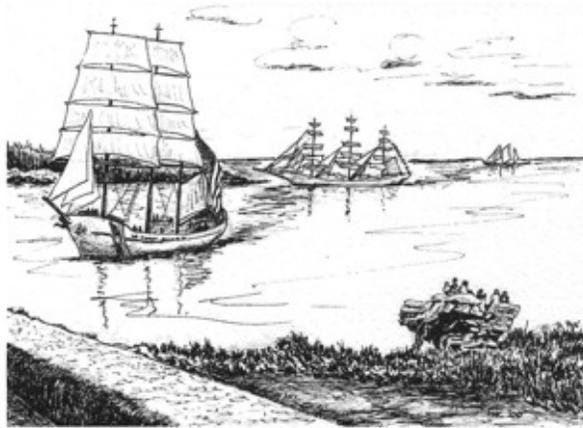
The distinguishing mark of Judge Coffin's judicial work also sets him apart personally from hundreds of competent and dedicated lawyers and public servants: the creative and sympathetic presence of full and rounded humanity. It is not incidental that this superb book about the federal judiciary captures through personal observation the human dilemmas and opportunities before any judge, whether the subtle support and constraint of collegiality or the moments of solitude with unsettled questions where the judge must give an answer aided only by inadequate precedents and contradictory theories. Judge Coffin's clerks learned in a thousand ways that the litigants, lawyers, and judges themselves were real people affected by or responsible for the administration of justice.

But if Judge Coffin invigorated our understanding of the law by drawing the connection between the judicial process and the lives actually lived around us, he

3. Professor of Law, Georgetown University Law Center. Editor's Note: This Article was previously published in the *Maine Law Review*, 43 ME. L. REV. 11 (1991). This reprinted version corrects minor typographical errors from the original version. Additionally, the images featured in this Article are reproductions of Judge Coffin's original works of art.

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. In a world where many lawyers are one-dimensional drones flattened by the relentless pursuit of “success,” with more billable than waking hours, here is a man with the most varied and successful legal career, who withal carves statues, paints pictures, loves his family, is loved by them, writes verse, makes prints, writes books, attends church, puns, keeps a boat and a summer house, belongs to clubs, suffers practical jokes, retaliates, and exchanges quips with the Senate Majority Leader and with the courthouse janitor. Moreover, these manifold active talents and commitments flourish in graceful balance, easing any hard distinction between home and chambers, play and work, family and clerks. Clerking for Judge Coffin at the outset of my career profoundly enriched and qualified my ambitions, and suggested possibilities for fulfillment where before had been callow ambition and fears of withering.

Judge Coffin’s easy harmony between judicial excellence and flowing humanity is captured by the casual honor with which he bears the title, “Judge.” He signs letters to his clerks simply, “Judge;” letters from him and his wonderful wife come “Judge and Ruth.” He remains a judge when he is a teasing friend or heartwarming printmaker; he remains a knowing and creative person when he decides an appeal. Thus, in calling him “Judge” we acknowledge the significance of his office and responsibility, while claiming the familiar affection of a nickname. We do not cease respecting when we love him.



It’s hard to think of the Judge not being here any longer because in his life he widened and extended all the boundaries of living—of what it means to have a career and to be a father and husband and son; of how one can express oneself vigorously through writing and through art, and care for one’s community and nation; of ways to cherish friends and be a mentor to everyone who ever worked with him—and also to accomplish all of this with wit and wisdom, and with a zest for life.

But of course he is still here. That’s the great gift he left us. We will continue to hear his gentle voice, to be counseled by his wisdom, continue to fall for his

deadpan jokes and be smitten by his laughter. In widening and extending the boundaries of what it means to live a good life, he lives on within all of us, bequeathing to us an enduring model for how to live.

Robert Reich

