

Remarks of U.S. Circuit Judge Frank M. Coffin,
Centenary Banquet, Maine State Bar Association,
Civic Center, Augusta, Me., April 5, 1991

1891 was a vintage year. One event had a lot to do with me and the second had a lot to do with all of us. The first occurred on March 3, 1891, when Congress passed the Circuit Court of Appeals Act. The second, of course, occurred on March 18, 1891, when, pursuant to a special act of the legislature, this Association was organized in the old Judiciary Room of the State House.

There is something about a centennial celebration of anything that threatens to paralyze thought. There looms in the mind's eye all the serried ranks of lawyers and judges, triumphs and defeats, problems and progress through a decade of decades. How can one possibly pay decent homage? Thanks to Judge Silsby and Messrs. Stone and Dawson, and their "One Hundred Years of Law and Justice," that burden has been lifted. Yet there remains the pleasant task of establishing rapport with the past so that we may face the future with a strengthening sense of continuity.

I have, if not a key, at least a keyhole to the beginnings. Not that I was present at the creation in 1891, though some might think so. But my lawyer grandfather, Frank A. Morey, had just been admitted to the bar six months earlier. And I not only remember him but remember, as a lad of 10 or 11, talking with him about being a lawyer. I have never forgotten the gist of his advice: the great thing about being a lawyer is the independence the profession makes possible.

Through Grandfather I have had a sort of preview to a centenary celebration. I have his fine, bound book of the proceedings at Augusta on January 12, 1921 celebrating "The First Century of the Bench and Bar of Maine." It was the thirtieth birthday of this Association and the Secretary dutifully reported that back in 1892 there were 280 members, and that during the first ten years the Association had been instrumental in getting some rather vital laws passed, prohibiting a judge at Law Court from reviewing his own case, requiring court reporters to take down all of a judge's comments during trial, funding purchases of law books, and establishing a Board of Bar Examiners. Since 1910, the Association had concentrated on supporting the passage of uniform laws relating to negotiable instruments, divorce, sales, and warehouse receipts.

At this thirtieth milestone, the Association had dropped in membership from 280 to 270. Sixteen members had been suspended for non-payment of dues, although the dues were only \$1. The Secretary, however, facing the increasing costs of photographic cuts for his reports, moved apologetically -- and successfully -- to increase dues to \$2. A ticket to the centennial banquet cost all of \$3. It was unimaginably Lucullan. They began with blue point oysters, washed them down with clear consommé, then went on to baked white fish, iced cucumbers, and Julienne potatoes. Now, appetites whetted, they dug into roast stuffed chicken with mashed potatoes and squash, followed by fruit salad, pineapple ice and cake, crackers and cheese, and a demitasse, followed by Blackstone cigars and Poland water, the latter two items being the gifts of the suppliers.

The banquet hall was festooned with small fir trees on the head table, silver candlesticks with red, white, and blue candles, and a Betsy Ross flag at each plate. The only sour note, if anyone noticed, was the cover of the song book at each plate. As each lawyer, judge, and legislator present picked up his book, ready to erupt into melody, he read, "Let me write the songs of a nation and I care not who writes its laws."

Not only could our forebears stomach a huge amount of food but they could endure a

marathon of speechifying -- 10 in all. Ex-Governor Milliken, who had appointed every member of the Superior and Supreme Judicial Courts led off. Future Governor Percival Baxter, then President of the Senate, after expressing his hope that a member of the legal profession would serve on every important committee, uttered this fell prophecy: "If lawyers were eliminated from Legislative Halls there would indeed be a Babel of Laws." The attendance in full vigor of former Chief Justice William Penn Whitehouse, who was a member of the Supreme Judicial Court in 1891, was a symbol of continuity.

Reading these proceedings, I felt the continuity. I counted twenty members of the Association at that time whom I knew and had some dealings after the span of another 30 years. Moreover, also present at the banquet seventy years ago was Associate Justice, later to become Chief Justice Scott Wilson. As the Maine judge on the First Circuit Court of Appeals in the 1930's, he was my predecessor. He, together with all judges in attendance, was the object of irreverent comments by the then newest justice, Luere B. Deasy, a sort of spiritual ancestor of Brothers Wathen and Roberts. This is what he said about Justice Wilson:

Judge Wilson confessed to me that he has a peculiar and unique method of getting up his opinions. He reads the case, and he reads the briefs -- he says he does -- (Laughter) and he writes the opinion, and then he goes home and goes to bed, and goes to sleep and dreams about it; and then he goes back and tears up his opinion and writes another one the other way. So you see it is very important in the case of Judge Wilson that he be not compelled to go to bed on an empty stomach.

Although there is this sense of continuity, there is also continuing change. As I look at the more serious pursuits of this Association, I can see its public interest moving with the times. It began, as I've noted, with sponsoring fundamental laws having to do with the way courts operated. The creation of the superior courts themselves was a subject of keen interest in the early 1900's. Then came the long era of interest in substantive laws, beginning with the Uniform Negotiable Instruments Law and continuing to this day.

By mid-century the Association was beginning to realize its potential for upgrading the housekeeping of the profession itself. Committees took their work much more seriously. Meetings were better planned and more substantive. A permanent and professional staff and publications came into being. Continuing education blossomed. And, quite recently, the Association has given leadership to its external obligation to do all within its power to see that the indigent are not deprived of needed legal services.

Now, looking at the years ahead, I see a new role emerging for state bar associations -- that of vigilant protector of the independent and effective functioning of the courts. As is all too clear, we are in an era of severe budgetary stringency. In the clash of values, the pulling and hauling of opposing interests that confront legislators, the judiciary is a weak player. Even legislators who are both understanding of and sympathetic toward the needs of the courts are forced by perceived public pressure to accord other needs higher priority. The bar's leadership in mobilizing the support of community leaders and the public across a broad spectrum is essential if the quality and accessibility of justice in our courts are not to cheapen and erode.

Acting on this principle, the groundbreaking conference between members of state judiciaries and state legislatures, meeting in Denver in October of 1989, voted to "Encourage bar associations to serve as intermediaries between the legislative and judicial branch."

Professor Hazard of Yale, a leading authority on legal ethics and the profession, has framed the challenge in these words:

If we believe in good law properly administered, we have to believe in good

courts adequately supported. These are concerns the bar ought to share. Our professional function is, after all, derivative of the judiciary's function. Our professional standing is founded on the judiciary's pedestal. Like a lot of other parts of the social infrastructure, that pedestal has been crumbling. Restoring the judiciary is part of the task of restoring professionalism.

Let me conclude with a final reference to that centennial dinner in 1921. One lawyer ended his remarks by quoting the eminent Harvard professor, John Chipman Gray, "Great bars make great judges." Today we expand the formula: A public spirited and vigilant bar is a precondition of a court of enduring independence and quality.