

Remarks of Frank M. Coffin
U.S. Senior Circuit Judge
Thirtieth Anniversary
Pine Tree Legal Assistance
December 1, 1997, Augusta Civic Center

Dean Acheson, in his book about his years of service with President Truman and General Marshall, "Present at the Creation," prefaces it with a quotation from the biographer of William the Silent, C.V. Wedgwood: "History is lived forwards but it is written in retrospect. We know the end before we consider the beginning and we can never recapture what it was to know the beginning only." Then he added that neither he nor any other compatriot knew, "nor do any of us yet know, the end." So with me and all of us. All we know is that we are part of a movement with a distinguished past, a vital present, and an exciting future.

As we celebrate three decades of Pine Tree's existence, it is hard to imagine a time when legal assistance for the indigent was not a prominent part of our institutional life. But in 1964 when the Economic Opportunity Act launched the War on Poverty, while there had been contributions to the legislation from leaders of church, labor, business, agriculture, the academy, and civil rights, and while Community Action and its offspring, the Job Corps, Head Start, the Neighborhood Youth Corps, VISTA, Work-Study, and Work Experience played key roles, legal assistance was buried in an office within OE0, the Office of Economic Opportunity.

Within two years, there was increasing recognition of the need for equalizing access to courts. In March of 1966 I addressed the annual banquet of my old Harvard Legal Aid Bureau, and was able to say:

Legal aid . . . is entering an era of greater controversy demanding more of advocacy. The increasing efforts, private and public, to give more effective legal representation to the hosts of the poor across the wide spectrum of the problems of poverty are adding a new dimension to the role of the lawyer.

I concluded, "This may well prove to be the most significant development affecting the legal profession since the birth of administrative law. The best years of the distinguished tradition of legal aid lie ahead." Little did I know.

Then, in mid-May of 1966, the administration's anti-poverty appropriation request was submitted to Congress. By this time, there had been rising dissatisfaction by the poor, who had been promised but had not yet seen "maximum feasible participation" in community action programs, exacerbated by an anti-Vietnam flood of distrust of anything implying Establishment. The Congress began attaching restrictions to anti-poverty programs, but it also, significantly, diverted \$22 million of community action funds to legal services.

At this moment, OE0 approached Seward Brewster, who had tried to launch a local legal aid bureau in Kennebec County, and suggested there might be grant money available for a wider program in Maine. This led to the formation of Pine Tree, the first legal services provider in the country that was in reality state-wide, although the name, "Pine Tree," neatly blunted that fact, since "community action" was supposed to be confined to local communities.

Two months later, the Maine State Bar Association took the generous action of endorsing the new enterprise at its annual meeting. That evening, I concluded my keynote address to the Association by referring to the 18,000 people in Portland below the poverty level and asking

Can we be so sure that all of these know when to seek legal advice . . . and

that they could get this advice if they sought it? . . . How can we be sure that we know the legal needs of the poor? . . . How can the specific responsibility of the bar and the general responsibility of the public best be balanced and meshed? How can competent, sensitive lawyers and staff be recruited and retained? And, as important as anything else, how can the poor themselves be reached -- first, to know what the law should mean to them; second, to have confidence in the processes of the law; and, third, to play a role in developing, promoting, and administering any service?

I ended with these words: "[A] new challenge has been laid before us -- the bringing of the utensils of a government of laws to the service of people formerly considered beyond the pale of concern in a reasonably small, friendly, and informal state. We ought to be able to do this job well."

Pine Tree received its first grant from OEO in January, 1967, and began serving clients in July. It was staffed by nine attorneys in eight locations. By 1977 operations were consolidated in six offices. The apex of staffing was reached in 1981, with 33 attorneys. But then, under President Reagan, staffing was cut by one third; from the mid-1980's to the mid-1990's retrenchment and restructuring were the orders of the day. In 1989 the Muskie Commission on Legal Needs started its work and reported in 1990.

When Nan Heald became Pine Tree's Executive Director in 1990, she followed a heroic and path-breaking group: Charles Tenney (1967-68), Donald Fontaine (1968-72), Susan Calkins (1972-77), Michael Feldman (1977-1982), David Kennedy (1982-86), and Pamela Anderson (1986-90).

During these three decades Pine Tree began with giving topflight representation to individuals in domestic disputes, evictions, credit matters, employment actions. Its work often had wide impact, beyond the immediate parties, in family law; extending due process to child custody and protection proceedings, foreclosures, and evictions; abolishing debtors' prison, solitary confinement, improving conditions in municipal and county jails, Pineland, and Thomaston; weeding out anomalies and inequity in general assistance, AFDC, and Medicaid; and securing better code enforcement in housing and tenants' rights including a warrant of habitability. It has to its credit significant legislative improvements in welfare and health fields. Its services to Native Americans and farm workers have been celebrated. And its stewardship of the Volunteer Lawyers Program is a model for the country.

With such a record, one might think that the status of such tried and proven legal assistance organizations such as Pine Tree would have been as secure as the FBI or the National Institutes of Health. But no. The axe fell in 1996 when Congress not only slashed the budget of the legal Services Corporation but sharply curtailed the range of permissible activities.

Since then we have seen a remarkable and heroic period of state efforts to mobilize whatever resources were left to us, individual and organizational, private and public, professional and volunteer, to fill the yawning gap between need and capability to serve. An unprecedented enterprise has been under way for the past two years, involving the staffs and boards of the providers of legal services, committed members of the bar, the law school, the Maine Bar Foundation, judges, and many court-related organizations and their corps of volunteers.

I have the honor to chair the policy-making body, the Justice Action Group. The key provider-participating committee overseeing operations is the Legal Services Response Team. And serving it are task forces on revising bar rules, sharing resources, centralizing client intake, technology, volunteers, legislation, pro bono law firm activities, and a new working group on

impact litigation.

So far we can point to steady, if not spectacular, achievement. We have created new legal entities to carry on functions prohibited to recipients of federal funds, the Equal Justice Project for legislative and administrative advocacy, and the Equal Justice Partners for class action impact litigation. Some 35 private attorneys have joined the "virtual law firm" network to carry out this work. We were happily successful in obtaining legislative approval for increasing certain civil filing fees to make the Civil Legal Services Fund a reality. Banks have gracefully yielded to prodding to increase the rates of interest allowed on IOTA funds.

A small group of large firm managing partners is considering ways and means of increasing the scope and efficacy of pro bono contributions. And, through "Dirigo," a state-wide citizens' committee formed to enhance the work of volunteers in support of the courts, a grant has been obtained to fund a pilot project, the creation of a coordinator of volunteers responsible to the judiciary. A Governance Institute contribution of a new computer to the Volunteer Lawyers Project will enable technicians from several law firms to install a system enabling lawyers for the day readily to identify local counsel able to take on cases without thumbing through cumbersome notebooks.

In a very small nutshell this is the story of three decades of pioneering in legal assistance to the needy -- a belated recognition of the criticality of legal services to the war against poverty, growth in size, scope, and professionalism, retrenchment, restructuring, near catastrophe, and now a time of rallying and recoupage through broadening the community of supporters and enlisting new sources.

Now, looking ahead, taking a wide angle approach, we see legal assistance as embracing a very wide spectrum. It begins with the heart and core, the providers like Pine Tree and their dedicated and seasoned professional staffs; it adds increasing numbers of private attorneys with some specialized training for more effective pro bono work; it involves private lawyers giving limited legal service as lawyers for the day at courthouses, as well as paralegals and even lay volunteers giving useful information falling short of legal advice; necessarily, this involves court rules and/or statutes clarifying the ethical responsibilities of those serving such limited roles; overshadowing all the efforts of individuals and organizations is the need to make appropriate areas of the law more user friendly, to demystify and simplify; and underlying all efforts is the need for general education to teach the ordinary citizen more about rights, responsibilities, court processes, and the necessity for having access to legal help before problems fester into crises.

But in this universe there remains the vital need for the state and the nation to recapture the conviction that, particularly in a time when the gap between the well off and the poorly off is widening, there is little in this country that is more important than ensuring equal access to justice. In a time of intense political partisanship, this is one cause that should unite all believers in a just society, whether or not they believe in big or small government. This means that both state and federal governments have yet to recognize the critical importance of the safety net of all safety nets. Just as, thirty years ago, legal services gained belated recognition in the war on poverty, so its time must come once again in the endless campaign for equity and justice.