

Remarks of United States Senior Circuit Judge
Frank M. Coffin
in Memory of the Honorable Donald W. Webber
Androscoggin County Courthouse
Auburn, Maine, Oct. 10, 1996

A Wonderful Life

Often, memorial services such as these are thought of as obligatory ceremonies in which the living faithfully pay their respects to the departed with utmost solemnity. I speak for all of us when I say that this is not that kind of an affair. We come here not out of respect, although there is plenty of that. We come out of love for a very rare individual. We come here not out of a sense of duty but out of a very selfish desire not to let him get away, to keep as much of him with us for as long as we can.

And if we verge on the solemn or sanctimonious, we should not be at all surprised to hear a muffled snort from somewhere above the bench that he so graced.

Let me say first how honored I am to be asked to participate in this service, in the room where, 49 years ago, I was admitted to this bar. Like everybody in this room, I have been touched in so many ways by Don Webber. If all of us could tell the ways, we would be here for hours, perhaps days. In my case, in about 1946, when I was finishing up law school after the war, both Don and Frank Linnell made a point of speaking to me, saying that the community could stand more young lawyers. They were hardly senile at this point, being all of forty years of age. Well, this made a deep impression on me. And I can say that coming back here was one of the best decisions I ever made.

Justice Webber's time on the Superior Court, from 1948 to 1953, just about equaled the time I practiced law in the twin cities. I remember two cases I tried before him. One was a messy domestic matter where I had to cross examine my client's wife. She was the very embodiment of the fury of a woman scorned. She was deeply gifted in the fury department. I approached my job with trepidation. I was profoundly grateful that the judge's benign control kept imprecations and tears to a minimum and staved off mayhem. In another case, where I was pitted against the able John Platz, Justice Webber very properly ruled against me, but in so doing, somehow made the whole experience a positive one. I shall remember him as a nurturing judge for young lawyers.

In the early 1950's just before he ascended to the Supreme Judicial Court, he intervened in my life in a fateful way that I learned about only much later. The Portland firm we now know as Verrill and Dana was looking for trial counsel and Don recommended that they consider me. And so I went, joining a company of excellent lawyers and fine gentlemen. What a great fairy godfather!

In the years to come we communicated at least at Christmas time. In his heartwarming Memoirs he indiscreetly admitted that, though reared as a good Republican, he occasionally looked kindly on such interlopers as Ed Muskie and me. And after I became a federal judge, we had some interesting exchanges. I think that some of my opinions may have amused him as the meanderings of a confused mind, but I never doubted his limitless tolerance and warm support.

One clue to Don Webber's life is revealed by his experience with college football. His experience at Bowdoin was very like mine at Bates. We both were deeply attracted to the game, despite the obvious fact that we lacked the essential physical endowments. In most cases an abortive effort to do something quite impossible would be merely a blip on life's screen. But in

Don's the blip became a significant event. Weighing in wet at 125 pounds, Don was the lightest person ever to stay the course all four years. His spunky fourth team became known as Webby's Bone Crushers. And so much did his peers think of him that they prevailed on wise old President Sills to overrule a budget-cutting coach who had said he couldn't make the trip to the final game of his senior year with Wesleyan. Twenty-one years later, Governor Hildreth, once a star end at Bowdoin, remembered the "mighty mite," as he referred to Don -- and named him to the Superior Court. . . not, of course, for that reason.

This little anecdote is a metaphor for Justice Webber's life, except that in real life he not only made the varsity but starred in many games played in many different fields.

The first field he played in was the local community where he headed Kiwanis, the Chamber of Commerce, the Community Chest, and gradually became the eminence grise for so many civic leaders who followed.

In the law he fashioned an unprecedented kind of sandwich, a fifty-nine year sandwich: seventeen years of practice, followed by twenty-five years as a Justice on the Superior and supreme Judicial Courts, followed by another seventeen years when he served of counsel to Linnell, Choate and Webber and accepted reference cases from the Superior Court. As a lawyer he was not only an effective advocate but the paradigm of a sage counsellor, not only for private clients but also the city of Auburn and legislative committees. As a trial judge, he somehow combined the ability to innovate and change old practices, such as his introduction of mandatory pre-trial conferences, with common sense, receiving, early on, the accolade of "Mr. Practical" from previously skeptical veterans.

As an Associate Justice of the Supreme Judicial Court his opinions set a high standard of thoroughness and elegance, while, in the many years in which he was the Senior Associate Justice, he served as the vital support of whoever was Chief. And, in what must be one of the most gracious, graceful, and courageous acts of coping with pressures beyond his control, he put his prestige on the line by publicly urging the Executive Council to abandon its 4 to 3 vote against the nomination of his friend Armand Dufresne as Chief Justice, thus assuring the appointment. In so doing, he exhibited a greatness far beyond the capacity of any appointive position to confer. Like Learned Hand, who sat on the Supreme Court of the United States only in the minds of those who knew his merits, so does Don Webber sit in our minds among our most respected Chiefs.

Another field in which Don Webber played was that surrounding his church. He wrote of himself that he was not a doctrinaire Christian but was a churchman because he saw churches as helping those in need. He writes this about the parables of Jesus as a teaching tool: "What, for example, does the story of the good Samaritan teach me about care, compassion, going that extra mile, and even about civil rights?" He practiced what he preached, beginning with his amazing leadership of his Pilgrim Fellowship for high schoolers.

Then he found himself serving his denomination at the state level and finally at the national level. Long before most of us were aware of desegregation efforts, Don had waded into southern territory, participating in 1956 in the first integrated meeting ever held in Memphis. He was chosen as the first Moderator of the newly organized national United Church of Christ, then sat in the hot seat of chairing the restructuring effort merging existing bureaucracies into the new UCC. He brought to this highly controversial task his lawyerly skills of presiding, mediating, compromising, and peace making with such effectiveness that, after he read his hour long report to the Synod in Boston in 1969, he and his committee were greeted with, not rotten eggs and overripe tomatoes but a prolonged standing ovation.

The final field I touch upon, but really the very first field, and one which he never left, was family. Don distributed his affection equally among all four generations surrounding him. One has the sense that a feeling of continuity runs strongly in the veins of this remarkable family. Four generations of lawyers is one indication, from Colonel George, to Don, to Curtis, and now Rebecca. At the end of his Memoirs, he wished for his children, grandchildren, and great grandchildren the richest gift he could conceive - that they have a marriage of the kind he and his beloved Lucy had. He relished not only Faith and Curtis and their spouses, whom he called his third and fourth children, but five splendid grandchildren and crowed happily that Lucy and he were "not too young to have GREAT grandchildren."

What does this life teach us? I suggest that when a member of our profession adds to a lengthy record of the most distinguished service as lawyer, trial judge, and appellate judge an enduring civic commitment, concern for the young, dedication to making his church an instrument for healing and help, and devotion by word and deed to family -- and all of this with humility, patience, stubborn determination, and inexhaustible good humor -- then that person, that whole man ennobles our profession and serves as a beacon for all.

Don closes his Memoirs saying "I have been very lucky, and have had a wonderful life." Yes, a wonderful life... for all of us.