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## The Maine Idea

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# THE JOURNAL OF APPELLATE PRACTICE AND PROCESS

## FOREWORD

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### THE MAINE IDEA

Historian Barbara Tuchman once described Maine as the “hard northern corner of New England.”<sup>1</sup> That description still fits: Mainers prize the stern values—thrift, rigor, integrity—long associated with the state’s particular strain of Yankee rectitude. And they have as well an old-fashioned respect for duty that tolerates neither the shirker nor the cheat.

Familiar with the character of Maine, I assumed for a long time that there was nothing unusual about the state’s producing a number of distinguished judges. Indeed, I thought it unremarkable that two of Maine’s best-known judges had been considered for the Supreme Court,<sup>2</sup> and that the third, a mentor to Justice Breyer,<sup>3</sup> was the author of two books on judging so highly regarded that they were “regularly read by new appointees to the bench.”<sup>4</sup>

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1. BARBARA W. TUCHMAN, *THE PROUD TOWER: A PORTRAIT OF THE WORLD BEFORE THE WAR, 1890–1914* at 119 (1966).

2. Judge Edward T. Gignoux of the United States District Court for the District of Maine, appointed by Chief Justice Warren Burger to preside at both the contempt trial of the Chicago Seven and the bribery trial of Judge Alcee Hastings of Florida, was a “leading contender for a vacancy on the United States Supreme Court in 1971 and again in 1975.” Wolfgang Saxon, *Edward T. Gignoux, 72, Is Dead; Served on Federal Bench 26 Years*, N.Y. Times, Nov. 6, 1988, at 52. Chief Justice Vincent L. McKusick of Maine’s Supreme Judicial Court, whose life and work are discussed more thoroughly elsewhere in this issue, was considered for the seat to which John Paul Stevens was appointed. See Derek P. Langhauser, *A Tribute to Vincent L. McKusick, 1921–2014*, 15 J. APP. PRAC. & PROCESS 147, 153 (2014).

3. Linda Greenhouse, *A Judge and a Politician*, The Opinion Pages (Dec. 31, 2009, 9:45 p.m.), [http://opinionator.blogs.nytimes.com/2009/12/31/a-judge-and-a-politician/?\\_r=0](http://opinionator.blogs.nytimes.com/2009/12/31/a-judge-and-a-politician/?_r=0) (accessed Apr. 28, 2015; copy on file with Journal of Appellate Practice and Process).

4. Neil A. Lewis, *Frank Coffin, Chief Judge of a Federal Appeals Court, Dies at 90*, N.Y. Times, Dec. 17, 2009, at B13 (referring to FRANK M. COFFIN, *ON APPEAL: COURTS, LAWYERING, AND JUDGING* (1994) and FRANK M. COFFIN, *THE WAYS OF A JUDGE: REFLECTIONS FROM THE FEDERAL APPELLATE BENCH* (1980)).

But now I know that if this was business as usual in Maine, it has not been every state's experience. Good judges sit in courtrooms all across this country, of course, undertaking their important work with care and dedication. Yet they are seldom in the public eye. Perhaps, then, the rise to national prominence of three Maine judges from a single generation suggests something important about the hard northern place that shaped them.<sup>5</sup>

## THE REST OF THE ISSUE

This issue's lead essay about Chief Justice McKusick turned my thoughts to Maine, but there is much else here to inform the appellate reader. We have articles from two judges, one who focuses on what new appellate lawyers need to know, and another who speaks primarily to new judges. And then we have an assessment of the use of emergency panels in the federal courts of appeals, a proposal suggesting a new rule for direct review in a state court of criminal appeals, and an evaluation of the newest iteration of the *ALWD Guide to Legal Citation*. I hope both that you will be inspired by Vincent McKusick's life story, and that you will find at least one of these other interesting articles useful in your work.

NBM  
Little Rock  
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5. Judge Gignoux was born in Portland in 1916; Judge Coffin was born in Lewiston in 1919; and Chief Justice McKusick was born in Parkman in 1921.