



Maine State Bar Association

Foreword

This little history of the Maine State Bar Association over the past one hundred years has been divided into two parts. The first part has been written by H. T. Silsby II and covers the first seventy-eight years of the Association under the first set of ByLaws. The second part, written by Alan Stone and William Dawson, Jr., brings the history down to date under the second set of ByLaws. The two parts describe the old entirely volunteer Bar Association, and the modern professional staff organization, performing a multitude of functions from lawyer referral services to arranging meetings to continuing legal education. The societal responsibilities of the legal profession simply could not be carried out without the modern structure of the Maine State Bar Association.

Dean Roscoe Pound in his study of the legal profession entitled The Lawyer From Antiquity to Modern Times has set forth the necessity of organization to a profession. Pound pointed out that "there are three ideas involved in a profession: organization, learning, i.e., pursuit of a learned art, and a spirit of public service."

In Alfred Z. Reed's great study of the legal profession he calls it the "public profession of law." While gaining a respectable livelihood is involved in any profession, money-making is not the only and primary purpose. The members of a profession have a moral duty, it is generally considered, to do pro bono work. No one ordinarily expects a grocery store to give away goods to needy persons who just happen to enter their premises, but on the other hand, it is generally expected that doctors and lawyers will reasonably assist those who cannot pay. The legal profession is in some respects a privileged group and in return owes society a fair contribution of time and talent. Only in America is one co-equal branch of government set aside exclusively for lawyers. As Reed says, lawyers "are part of the governing mechanism of the state." Reginald Heber Smith has written, "under a government of laws the lives, the fortunes, and the freedom of the people are wholly dependent upon the enforcement of their constitutional rights by an independent judiciary and by an independent bar."

In addition to this professional participation in the governing mechanism of the state, lawyers as a class have dominated in numbers the high public offices in Maine. For instance, 75% of U.S. Senators, 65% of the U.S. House Members, and over 50% of the Maine Governors have been lawyers.

A study by Michael Burrage of the London School of Economics and Political Science comparing the French, American, and English legal professions led him to conclude that the underlying interests or motives of lawyers in all these countries were not economic. He concluded that the professional behavior of the lawyers in these three countries can best be analyzed by their goals. He found four goals were constant and pre-eminent in the history of the legal profession. The first goal has been control of training and admission to legal practice; second, to demonstrate and protect the jurisdiction of the practice of law [efforts to eliminate unauthorized practice]; third, lawyers have tried to impose their own rules of etiquette, ethics, or practice on one another [the rules of professional conduct]; and fourth, they have tried to defend and enhance their status.

These four goals or ideas are all apparent in the preamble to the Cumberland County Bar Rules and Regulations adopted March 13, 1829, as follows:

WHEREAS, in all the liberal professions, great mischiefs are caused to the public by unlearned and immoral persons assuming to perform duties, which cannot safely be confided to any, but men of competent knowledge and pure character; and as the surest safeguard against these evils, it has been an ancient custom for those, who exercise such professions, to unite themselves as a fraternity, to prescribe to themselves such rules as are found best adapted to secure their honor and usefulness, to judge of the qualifications of such as offer themselves to become members of the profession, and by their approbation, and by admission to their society, to distinguish those who have pursued a proper course of study and discipline, from such as intrude themselves without due preparation.

And, these four goals are also apparent under the act of incorporation and first set of By-Laws, and under the second set of By-Laws of the Maine State Bar Association.

Now, of course, these are not the only goals of the legal profession in Maine, but they are the important goals common to Maine as throughout the three countries studied.

One goal that is somewhat surprising in view of the conservative reputation of the legal profession in Maine is the great discussions and actions of the Bar in attempting to reform the law and legal system and the administration of justice. The history of the Maine State Bar Association clearly shows that at least that organization was far ahead of the public in seeing the need of reform from time to time.

Maine lawyers have a proud tradition of the civilized and professional practice of law. Abuses have been relatively few. A critic might well make some sort of a case against the Maine Bar for its slow movement towards the implementation of improvements and extent of organized public service of the Bar over its history. The reply to this is that considering the Maine Bar averaged only some 700 to 800 lawyers, until very recent times, spread over a large state from the St. John Valley to Kittery, the Maine Bar on the whole did what they reasonably could. There simply was not the critical mass of lawyers required for large projects. The importance of large numbers is perhaps best indicated by the numerous Maine law books published now as a result of the huge increase in the number of lawyers over the past 25 years.

It is our hope that this little history will encourage a more profound study of Maine's legal history and will have some tendency to preserve and perhaps enhance the proud tradition of the Maine Bar and in particular of the Maine State Bar Association in its 100th year of service to the State of Maine and Maine lawyers.

January 1991

H.T. Silsby II

One Hundred Years of Law & Justice

Table of Contents

PART I

The Incorporation	1
Law & Justice: The Earliest Years	5
The Association: Organization and Reform	9
Bench and Bar of Maine: Into the Second Century	17
Through Tests of Time: Great Depression and World War II	23
A Century of Law & Justice: The Second Half	27
A Revolution: New Rules for Procedure	33
More Reform: The Association Reorganizes	37
The Association: Administration of Justice	41
Association Growth: Reorganization and Revitalization	49

PART II

Association Growth: Continuing Legal Education; Public Image; Community Involvement	57
Justice for All: IOLTA	63
The Maine Bar: Who We Are	65
The Maine State Bar Association: Into the Second Century	69
NOTE ON SOURCES	71
APPENDIX: Association Presidents	72
INDEX	73

prepared by
The Maine State Bar Association
PO Box 788
Augusta, Maine 04332-0788

© Maine State Bar Association 1991

The Incorporation

IN 1891 AN ACT WAS PASSED by the Maine Legislature incorporating the Maine State Bar Association "for the purpose of promoting the interests of the legal profession, and of instituting legal reforms."

The names of the original incorporators were:

James Bradbury	Albert M. Spear
Charles F. Libby	Treby Johnson
Andrew P. Wiswell	Charles P. Allen
Sylvester J. Walton	James Archibald
Frederick A. Powers	Charles M. Ham
Erastus C. Ryder	Charles E. Littlefield
Joseph B. Peaks	William L. Putnam
Louis C. Stearns	Henry L. Whitcomb
Albert R. Savage	Charles F. Woodward
Oliver B. Closon	Seth M. Carter
Franklin C. Payson	Ansel L. Lumbert
Addison E. Herrick	George C. Wing
Benjamin F. Charbourne	George D. Bisbee
William T. Haines	A.A. Strout
Jesse M. Libby	George C. Yeaton
Henry W. Mayo	Orville D. Baker
Charles A. Harrington	Lendell C. Titcomb
Frank L. Noble	Herbert M. Heath
Josiah D. Drummond, Jr.	Joseph H. Manley
Morrill N. Drew	Fred E. Beane
Oscar H. Hersey	Lemuel G. Downes
George R. Fuller	William P. Thompson
Edgar F. Gentleman	William E. Hogan
William H. Hilton	

The Act became effective when approved which was March 6, 1891.

Pursuant to the Act public notice of the first meeting of the corporation for the purpose of organizing was published in the Daily Kennebec Journal, Lewiston Evening Journal, Portland Press, and Bath Daily Times. The meeting was held in the Judiciary Room, State House, Augusta, on March 18, 1891. This can be considered as the actual birthday of the Maine State Bar Association.

At the meeting Charles F. Libby, later Maine's only President of the American Bar Association, was chosen temporary chairman, and Leslie C. Cornish, later Chief Justice of Maine, was chosen temporary secretary.

It was first voted to accept the Act of incorporation and to proceed to organize under it. A Code of By-Laws was adopted. Any Maine lawyer was eligible for membership. The officers were to be a president, three vice-presidents, secretary, and a treasurer. The standing committees were an executive committee and committees on law reform, legal education and admission to the Bar, and legal history.

The duties of the executive committee were to arrange meetings, disburse funds, and audit its accounts.

The law reform committee had the duty to report to the Association amendments to the laws as should, in their opinion, be adopted, to scrutinize proposed changes in the law, observe the practical working of the judiciary system and recommend changes in it.

The committee on legal education was to prepare and report a system of legal education and for examination and admission to the Bar.

The committee on membership was to consist of a member from each county.

The committee on legal history was charged with the duty to preserve in the archives of the society the record of such facts relating to the history of the profession as might be of interest and suitable written or printed materials of the lives and characters of distinguished members of the profession.

The annual dues were set at One Dollar.

The officers elected for the first year of 1891-2 were:
President: Charles F. Libby, Portland
Vice Presidents: Charles F. Woodward, Bangor
Orville D. Baker, Augusta
A.R. Savage, Auburn
Secretary and Treasurer: Leslie C. Cornish, Augusta
Executive Committee: Charles F. Libby, Portland
F.A. Powers, Houlton
A.P. Wiswell, Ellsworth
A.M. Spear, Gardiner
G.P. Mattocks, Portland

The first year there were 281 members. Every county was well represented on the membership list, Cumberland having the most members at 45 and Piscataquis the smallest number at 5.

Success came at last to organizing a state-wide bar association. There had been prior attempts. On February 1, 1881, ten years earlier, the Cumberland Bar Association sent out a letter to each county Bar to consider the "expediency of forming a State Bar Association and of some uniform system of examining candidates for admission to the Bar," and for two delegates from each county to meet at Augusta, February 23 at 2 p.m. Ten counties had delegates present. The members proceeded to organize an association which was incorporated the following March.

At the meeting of February 23, 1881, Charles F. Libby presented a proposed bill regulating admission to the Bar. After a full discussion and several amendments, the bill, as amended, was adopted by the Association and Byron D. Verrill of Portland, a member of the Legislature in the House that year, was requested "to take charge of the bill and secure its enactment." He got the bill enacted without any significant change. It was a great improvement over prior law. The bill provided that any candidate must have studied law in a lawyer's office or in a law school for at least two years, and before admission must pass a public examination, partly written and partly oral, in the presence of some justice of the Supreme Judicial Court. The examination was to be conducted by a committee appointed by the Chief Justice. Each county was to have a committee.

Until 1843 the requirements for qualifying for admission to the Bar were severe, and included a rule of court prescribing the course

of studies. That year the Legislature passed what Judge Peters called the "Lawyer Killer Bill," which eliminated any intellectual qualifications whatsoever for admission to the Bar, reserving only that a person must be of good moral character. Efforts in 1859 and 1860 to improve qualification requirements met with very limited success, resulting only in requiring the Supreme Judicial Court to appoint an examining committee in each county to determine whether each "applicant possesses the prerequisite legal qualifications," whatever those were thought to be from time-to-time and committee-to-committee. In practice the whole thing didn't amount to a damn.

The 1881 Bar Association apparently died of success. The Association was incorporated and the education bill passed. The meeting of February 23, 1881 adjourned to March 1 and adjourned again until March 15 at the Hotel North in Augusta. The meeting being called to order, it appeared there was not a quorum and so it was voted to adjourn. This Association never met again. The time had not yet come for a state bar association. Distance and travel conditions must have been a considerable factor. There was, for instance, no railroad line to Aroostook, Washington and Hancock Counties.

Law & Justice:

The Earliest Years

INDEED, DISTANCE and travel conditions had broken up what was in effect a state-wide bar association organized at Spring's Tavern in Biddeford on the fifteenth day of October, 1789. This meeting voted

That the gentlemen of the Barr, usually practicing in the District of Maine, form themselves into a society for the purpose of conforming their practice in Court, and the admission of students, to that of the gentlemen in the other parts of the Commonwealth of Massachusetts.

The members of this society referred to it as "Barr of the District of Maine." Maine was generally called the District of Maine after it was set off as the northern maritime court district of Massachusetts at the beginning of the Revolutionary War. In 1789 Maine was divided into five counties: York, Cumberland, Lincoln, Hancock and Washington. Each county had a Court of Sessions and a Court of Common Pleas. The Massachusetts Supreme Judicial Court was a circuit court and at this period sat in York, Cumberland and Lincoln. Lincoln County had the venue of Hancock and Washington. The lawyers followed the circuit of the court, and so were frequently in contact with each other. The Barr of the District of Maine met regularly at the several courthouses on the circuit.

The society voted to buy a "Barr Book" in which to "record all the acts and doings of the Barr," and to procure copies of the rules of Suffolk and Essex Counties.

At a meeting September 15, 1791, it was voted that the members charge 50 pounds for the instruction of a student of law, that his qualifications be a university education or equivalent, and three full years of study with some practicing attorney in the Supreme Judicial Court.

The Bar society carefully recorded the educational progress of students and recommendations for admission to the Court, and in 1800 set minimum fees. The fee for a retainer in the Court of Common Pleas was \$2.00; in the Supreme Judicial Court, \$4.00; for writing a letter without writ, 50 cents; for arguing an issue in the Court of Common Pleas, \$5.00; in the Supreme Judicial Court \$10.00; and for a Justice's (J.P.) writ, \$1.00.

This Bar society broke up into county Bars about 1802. There were now six counties and Oxford and Somerset were set off within seven years after. Only a few lawyers still followed the circuit. Distance and travel conditions, the great increase in numbers of lawyers, and other practical considerations no longer made a district-wide Bar feasible.

After the Revolutionary War the population of Maine rapidly increased. In the decade before 1790 the population had doubled to 96,540 and then increased to 151,719 by 1800; to 228,705 by 1810; and by 1820 was 298,335.

The lawyer census kept up with this population explosion. From 1760 to the Revolutionary War the number of lawyers in Maine held steady at 5. By 1790 the number had grown to 16; by 1800 to 54; by 1810 to 144; and 1820 to 201. In 1800 of the 54 lawyers, 49 came from out of the District of Maine.

Between 1800 and 1810 the several counties had Bars large enough to warrant organization. Few records of the activities of the early county Bars remain, but here and there traces and fragments survive. We know from the old Bar book of the District of Maine that the Kennebec Bar held meetings in 1802, and that the record then skips to 1810. After that date the record of meetings continues until 1829. The first election of officers of the Cumberland Bar was November 19, 1805 and the earliest Bar records of York began in 1811. That same year the Oxford Bar was meeting to consider allegations that one of their members had advocated a cause not commenced by an attorney contrary to their rule. It was voted to suspend him. The Hancock County Bar had adopted a minimum fee schedule by 1810. The fees were justified by the following rationale:

When it is considered that the rules of the Supreme Judicial Court require that nine years at

least should have been devoted to literary and professional pursuits; to qualify a man for admission to that Court, as attorney thereof; and two years practice therein as an attorney, to qualify him for admission as a counselor thereof; and that those, who undertake the arduous duties of an attorney or Counsellor at Law, are bound in honor to indemnify their clients for all losses or damages, which are occasioned by negligence, or want of professional knowledge, it must be evident, that a reasonable and honorable compensation ought to be made, whenever professional assistance is afforded.

Honorable compensation was judged to be for advice, \$2.00; drafting a deed, \$1.00; for collecting demands before suit of less than \$20.00, the fee was 50 cents; \$100 to \$500 was \$2.00; arguing a cause before a justice of the peace, \$3.00; common pleas, \$5.00; and Supreme Judicial Court, \$12.00; for naturalization, \$12.00; divorce, \$20.00. References were charged at the same rate as in the court referring the matter. Clients who lived outside of Hancock County were charged 3% for collections. The 1806 schedule of fees in Cumberland County was very nearly the same.

No subject took up more time at the Bar meetings over the early years than the matter of legal education. The District Bar and the County Bars implemented the rules of the Supreme Judicial Court of Massachusetts and of Maine after the separation in 1820.

A course of study was begun by a student making an agreement for instruction with a lawyer admitted to the Bar. Notice was given by the lawyer to the Bar that the student had begun his apprenticeship. If the student was a college graduate the period of reading law was 36 full months. Oftentimes students taught a term or two of school to raise a little money. Time away from the student's law studies was not counted. A typical certificate concerns Edward Kent, later Governor of Maine and Justice of the Supreme Judicial Court, as follows:

This may certify that Mr. Edward Kent commenced the study of law with me on the 18th day of November in the year 1822, has pursued his

study till this time, has made good proficiency, and is of good moral character.

Brunswick Oct. 4, 1824

Benj. Orr - Counsellor at Law

After it was shown that the three full years rule was complied with and the student was a suitable candidate for admission to the Bar, the Bar voted recommendation to the Court. In the rare instance a student attended a law school he was given credit for that time in law school against the three year study requirement. Grenville Mellon, son of Chief Justice Prentiss Mellon, and later a professional writer, was given credit for the time he spent at Harvard Law School under the instruction of Professor Stearns.

All of the old Bar records which remain can be classified with respect to Bar activities into concern with education of the Bar, (first and foremost), discipline, economics of the profession, practice, improvement of the law and legal system, and the administration of justice. No where in the records is there any organized Bar effort with respect to other public issues or policies, and properly so. It is almost a definition of the Bar to say that lawyers have been on all sides of public issues, been of all parties, factions, and persuasions. The great redeeming virtue of the Bar has been that its members' skills, training, and knowledge have been available to all regardless. The Bar is not and should not be a great political monolith.

The concerns of the legal profession were, as indicated, handled on a county basis exclusively until 1891. By this time it was clear that a state-wide bar organization was needed, was feasible, and was generally supported by the Bar. This is all shown by the fact that nearly half the lawyers in Maine joined the Maine State Bar Association in its first year.

The Association: Organization and Reform

THE FIRST ANNUAL MEETING of the Bar Association was held in the afternoon at the Senate Chambers in Augusta, February 17, 1892, at 7:00 p.m. A dinner meeting was held at the Hotel North, Augusta's principal hotel, before the Augusta House. In the afternoon, Charles F. Libby gave his President's address entitled "Legal Reforms." The principal thrust of his speech was to advocate the merger of law and equity along the lines of the English Supreme Court of Judicature Act of 1873, a forerunner of our modern Rules of Court. Libby stated about the legal profession that "If there is anything with which we lawyers can reproach ourselves, it is a spirit of undue conservatism which is the natural outcome of our legal training." This address set the theme of reform which absorbed the attention of the Bar meetings until World War I. Another address was given in the afternoon by Orville D. Baker supporting the idea of reform. And, in the evening "a very interesting address on 'reminiscences of the Kennebec Bar' " by J.H. Drummond which unfortunately was not printed in the first annual report.

A list of the reforms proposed by the Bar Association during the first 25 years of its existence is distressingly familiar and tends to show the public resistance to reforms proposed by the legal profession. There is a huge predisposition to leave the law alone.

Libby's proposed reform of merging law and equity did not become wholly effective until 1959, some 70 years later, although the Legislature did pass the Law and Equity Act permitting a case to be transferred from the docket of one to the other without dismissal. (P.L. 1893, ch. 217)

Among the reforms discussed and supported by the Bar Association during the Progressive Era were bills to reform the court system by separating the trial court function from the Supreme Judicial Court and providing for a *nisi prius* court. This issue was

brought up repeatedly until finally in 1930 the Superior Court was created and became operative.

Another issue presented by Chief Justice L.A. Emery was a bill permitting the trial court to appoint expert witnesses. This was an idea formulated by Emery as the result of his prosecution of the murder case of State v. Smith, tried in Ellsworth in 1877 where the issue was whether blood on the defendant's clothing was human or animal. Many experts testified, apparently on the side of the first party to hire them. Emery pursued the idea and advocated it as far away as the New York Medico-Legal Society and he wrote articles on the subject in the American Law Review and other legal periodicals. This idea of court appointed experts, supposedly impartial, was adopted by some states by statute. In Maine the idea finally resulted in Rule 706 of the Maine Rules of Evidence.

Other proposed reforms were to allow the state to appeal a criminal case, to permit the Law Court to enter a final judgment in appropriate cases instead of ordering a new trial, provide for a rehearing in the Law Court within 30 days of a decision, to permit designating only a part of the testimony in a record on appeal, to allow evidence to be reported in narrative form, allow an exception to a refusal of a motion for directed verdict, appointment of clerks of courts by the Court instead of popular election, and for a statute permitting requests for admissions of fact. Most of these reforms have been now accepted, but only in relatively recent years.

The Bar Association also considered and approved many improvements presented by the American Bar Association such as the 1907 Uniform State Acts on negotiable instruments, divorce, sales, and warehouse receipts.

At the annual meeting in 1911, Frank S. Streeter of New Hampshire gave an able address on the issue of a Workman's Compensation bill. The Association later supported this reform.

Other matters discussed at annual meetings were a law school for Maine suggested by Charles F. Libby in 1896, but the Association does not seem to have been a significant moving force in the founding of the University of Maine School of Law soon after. Josiah Crosby suggested in 1900 a bill for retirement of Judges at one-half pay and to his widow and any minor children.

During the first few years of the Association its attention was mostly focused upon an improvement of the law providing for legal education and admission to the Bar. The 1881 reform, however progressive at the time, was inadequate to the standards of nearly 20 years later. The ABA did much work to improve the standards of admission to the Bar.

The 1881 law provided for an examining committee in each county. In practice there was a great diversity of requirements from one county to the other. Applicants to the Bar oftentimes applied for admission in a county with an easy reputation. At the annual Bar Association meeting in 1895 Joseph E. Moore brought up the question of whether there should be a more uniform system of examination. The matter was referred to the committee on legal education.

At the next meeting Charles F. Libby, still the President, gave his annual address entitled "Legal Education." It was a very able address. He stated "It is not to be forgotten that the character and quality of the education of the Bar does not concern alone its members, but affects as well public and private interests. Lawyers have become too important factors in modern civilization to make the question of what degree of culture and learning they possess, one of mere individual or class interest." He then pointed out the participation of lawyers in the great issues of the history of the country, "both in shaping institutions and laws, and in molding and directing public sentiment." He cited the fact, for instance, that over the past 25 years in Maine that 10% of the members of both House and Senate were members of the Bar. He then said, "The problems of modern civilization are complex and troublesome. The increasing disparity in social conditions, the growth of huge monopolies... and the antagonism between capital and labor ..., are some of the phases of modern life which present new problems whose solution is likely to tax the wisdom of the race, and call for both statesmanship and educational equipment of the highest order, it is not to be forgotten that on our profession must rest much of the responsibility of their wise solution."

Libby outlined the work of the ABA and suggested several courses of action for Maine, the most important of which was "that examination for the whole state should be committed to a single board of examiners." The matter was again referred to the Commit-

tee on Legal Education to prepare a draft of a bill for the Legislature, and again the next year when it was finally done.

The bill prepared in 1898 provided for a State Board of Bar Examiners to be appointed by the Governor upon the recommendation of the Chief Justice, and to consist of five "competent lawyers" for staggered five year terms, the member in his last year to be chairman. Three years study of law was required. The ABA recommended at least a high school education but the Maine proposed bill did not require it. The proposed bill required a student to register with the Board upon beginning his study. The bill passed the Senate that year but was resisted in the House, and finally referred to the next Legislature. In 1899 it passed as proposed except for the registration provision and other insignificant changes. This Act was the beginning in Maine of the modern system of Bar examinations and admissions, still in place, but much amended.

One can hardly appreciate now the isolation of lawyers within their own counties during the 19th century and well into the 20th. Very few lawyers crossed county lines to try cases or do other legal work, although some did. The Attorney General got around the state prosecuting murder cases, and the Supreme Court Justices were on circuit at *nisi prius*. The State Bar Association provided a great opportunity for lawyers to get together and talk shop and listen to addresses on various legal subjects. The only other statewide gathering place for lawyers was the Legislature.

The addresses at the annual meetings were very good and informative, and were enjoyed and appreciated by the members. The topics ranged from procedural reforms to international law over the first 28 years of the Association. During the first ten years the only speaker from outside Maine was Moorfield Story of Boston who spoke on international arbitration. The custom was in those first years for the President of the Association to give the principal address. Charles F. Libby, President for the first five years, spoke on "Legal Reform," "Land Transfer Reform" (the Torrens System), and "Legal Education." President Herbert M. Heath spoke on reform of procedure in 1897 and the next year Franklin A. Wilson gave an address comparing the lawyers of yesterday and today. President Charles E. Littlefield spoke on procedure and

practice in the Law Court and suggested reforms. At the 10th annual meeting Wallace White's President's address was about John Marshall and also Judge William L. Putnam gave an address called "Life and Character of John Marshall." The year 1901 was the 100th anniversary of John Marshall's appointment as Chief Justice of the U.S. Supreme Court.

Over the next 18 years the speakers generally came from away. In 1903 Samuel J. Elder of Boston called his address "Our Archaic Copyright Forms." Albert E. Pillsbury, former Attorney General of Massachusetts, spoke on constitutional law, Frank E. Streeter of New Hampshire on Workman's Compensation, Frank N. Parsons, Chief Justice of New Hampshire, on the rules of evidence, and in 1919 Daniel C. Stanwood, formerly of the Suffolk Bar, on international law. He was then teaching at Bowdoin.

The most famous speaker was former President William Howard Taft. He gave an address concerning executive power in the afternoon and spoke in the evening favoring the idea of a League of Nations. Taft was a very good speaker, all 300 pounds of him. His sense of humour was appreciated. He said that "after I left office, with the undisguised consent of the American people . . ." He told a story about a little girl named Lucy who told her father that she was the best student in her class. Her father asked her when the teacher told her that. Lucy replied, "She didn't, I just noticed it myself." The two speeches were excellent and the audience responded with "prolonged applause."

The Maine lawyers also gave some excellent speeches during this period. Chief Justice L.A. Emery spoke on medical expert evidence, as already indicated, and Robert Whitehouse on divorce and supplied many national and state statistics. In 1913 Justice Leslie C. Cornish, four years later Chief Justice, gave a very able address called "The Laws Dispatch in Maine." The burden of this speech, buttressed by a great collection of statistics, was that the Supreme Judicial Court did and could continue to get the court work done without any separate trial court. This speech ended all reform in that direction for more than a dozen years.

During this period, January 11, 1911, the first woman lawyer was recommended for membership and was voted a member. She was Eva Bean of Old Orchard Beach and had been admitted to the

Bar May 4, 1909. This vote was in the long-standing tradition of the Maine Bar. The first woman admitted to the Bar in New England was Clara Nash, admitted at Machias in 1872. The next was Helen A. Knowlton at Rockland in 1899, the year a statute was passed sounding very modern indeed, as follows:

No person shall be denied admission or license to practice as an attorney at law on account of sex.

Justice William G. Barrows of Brunswick admitted Clara Nash. He declared "I have no sympathy with that feeling or prejudice which would exclude women from any of the occupations of life for which they may be qualified. I direct that she be admitted." However, after some hardy traditionalists had caught their breath they thought there ought to at least be a statute permitting such a radical course of action. Thus the 1899 statute.

Clara Nash practiced law with her husband after her admission and tried cases.

Maine can also claim perhaps not a greater but anyway a wider distinction in that the first Negro admitted to any Bar in the United States was admitted in Portland July 3, 1844. General Samuel Fessenden, a leading abolitionist in Maine, and father of U.S. Senator William Pitt Fessenden, moved the admission of Macon B. Allen. Allen practiced in Massachusetts thereafter. Fessenden was the man for the job. He was a formidable figure in Portland and it took courage to oppose him on the question of Negro rights.

At the biennial meeting at Augusta, January 8, 1919, E.J. Laughlin of Portland brought up the matter of the deplorable condition of the burial site of Maine's first Chief Justice, Prentiss Mellen, at the Western Cemetery in Portland. Laughlin said that one of the park commissioners of Portland had brought the situation to his attention. He told the meeting of the inscription on the granite monument at the burial lot which read "Erected by the Bar of Maine to the Memory of Prentiss Mellen first Chief Justice of the Supreme Judicial Court of the State." After a vivid description of the condition of the lot and after giving an estimate it would cost \$80 to put the lot in good condition and \$150 for perpetual care, the President, John A. Morrill, appointed Chief Justice Cornish, former Chief Justice Whitehouse and Norman L. Bassett as a committee

“to devise ways and means” for the purpose of restoring the lot and providing for perpetual care of the lot.

Within six weeks Margaret D.G. Bursley learned of the plan to restore the lot and she thanked the Cumberland Bar Association for their interest in her ancestor, but that she would take care of the lot and assume the entire expense, which it was said she was “entirely financially able to do.”

After Mellen’s death in 1840, a committee of the Cumberland Bar was formed for the purpose of procuring funds for the erection of a monument at his grave. The committee members were C.S. Daveis, John Anderson, T.A. Deblois, Augustine Haines, and J.S. Little. The committee retained Joseph R. Thompson to do the work. Thompson’s work was described as “the monument is a diminished pedestal . . . less than ten feet high. The whole structure is of white marble, and rests upon a foundation of granite.” The record does not say how the project got to be a project of the Bar of Maine. There are plans to review the condition of the lot again at the centennial of the Maine State Bar Association. There is no better symbol of the continuity of the Bar of Maine than the monument at Chief Justice Mellen’s grave. He was a member of the first Bar organization in Maine, the Bar of the District of Maine, and the Bar of Maine erected his monument and have attended to its maintenance.

Bench and Bar of Maine: Into the Second Century

AFTER THE ANXIOUS YEARS of World War I were over there was a great burst of energy by the Maine Bar. It took on a different character from the focus on reform of the Progressive Age. The Roaring Twenties era was quite unlike anything that had gone on before. The Biennial meetings in 1921, 1923 and 1925 were organized around themes. The theme for 1921 was, "The First Century of the Bench and Bar of Maine 1820-1920," for 1923, "The Commemoration of a Century of Peace with Canada and of Our Common Heritage," and for 1925, "The Commemoration of the Adoption of the Constitutions of the United States and State of Maine."

When ex-President Taft spoke to the Association, Judge Symonds commented about Taft's appearance that "as lawyers we recognize the professional impulse which prompted him to come." After the Centennial of the Bench and Bar of Maine, Norman Bassett, Secretary of the Association, said that it was this same "professional impulse" which moved John Francis Sprague, Judge Clarence Hale, and Chief Justice Leslie Cornish to put in the many hours in order to put together all the history of the Bench and Bar published in the report of the meeting. Indeed, that report in Volume 22 is one of the primary sources of the history of the Bench and Bar.

The Centennial meeting was called to order by the President, Cyrus N. Blanchard of Wilton in the courtroom of the Kennebec County Courthouse at 10:00 a.m., Wednesday, January 12, 1921.

John Francis Sprague, a Dover-Foxcroft lawyer, editor and publisher of 14 volumes of Sprague's Journal of Maine History, gave the principal address at the morning session entitled "A Century of the Bar of Maine." He covered court organization, many members of the Bar, political activities of lawyers and their office

holdings, literary pursuits of lawyers, and even some poetry. The speech contained much factual information and nothing quite like it was ever published before in Maine.

The afternoon session was held in the "Hall of the House of Representatives in the State House." Two addresses were given, one by U.S. District Court Judge Clarence Hale called "A Century of the United States Court in Maine." This is still one of the best accounts of the federal courts in Maine. The other address was by Chief Justice Leslie C. Cornish entitled "A Century of the Supreme Court of Maine," and this address is also one of the best histories of the state courts in Maine.

After the morning session a picture of the members attending was taken in front of the courthouse and published with the Report. A picture of the group at the dinner meeting at the Augusta House was also published.

The evening session began at 8:00 p.m. The printed menu has eight pages. It includes a picture of Prentiss Mellen, the first Chief Justice, an extract from the Gorges and Mason grant of the Province of Maine in 1622, a copy of the 1701 attorney's oath still used in Maine, an abstract of the report of the Massachusetts General Court concerning separation of Maine in 1819. The front cover is a photographic reproduction of the first sheet of the original Constitution of Maine. The menu listed the courses of the dinner in detail. The meal was prodigious. The price per ticket was three dollars.

After the picture was taken, President Blanchard proposed a toast "To the President of the United States." All arose, the toast was drunk, and then the first verse of America was sung.

There was no principal speaker for the evening, but rather most of the guests at the head table were called upon to make a "response." All the four county Superior Court Justices were present, the Chief Justice and all but one of the Associate Supreme Court Justices, the President of the Senate and Speaker of the House, the Attorney General, Judge Hale, Judge Charles F. Johnson of the U.S. Circuit Court, two former Governors, Professor Stanwood of Bowdoin, the newly elected President, Charles W. Hayes of Dover-Foxcroft, and Senior Associate Justice of the Massachusetts Supreme Judicial Court, Henry King Braley.

In his response, Justice Braley said he brought "the cordial greetings and hearty good will of the Supreme Judicial Court of the Commonwealth of Massachusetts." He said that "It's decisions prior to the separation are yours by inheritance. You have taken by eminent domain since then all that you deemed useful," a much applauded reference to Maine's tradition that if you could not find a Maine case, then go to the Massachusetts reports.

The report of the Centennial meeting prepared by Norman Bassett in great detail is a wonderful landmark in the history of the Bench and Bar of Maine. At the next meeting of the Association, Bassett reported, "The inspiration of our Centennial was felt deeply by all. It seemed to throw out its inspiration in two directions. It splendidly closed the first century and as splendidly opened the second century of our jurisprudence and professional life and activity."

A resolution was unanimously adopted at the 1923 meeting expressing the gratitude of the members of the Association to Norman L. Bassett for conceiving the idea of a Centennial meeting and for his untiring efforts to carry it out. Volume 22 of the Reports of the Association is a fitting monument to his good work.

The meeting in 1923 began the second century of the Bar of Maine in appropriate and fitting fashion commemorating the international relations with our neighbor, Canada. The guest of the meeting was William Remmick Riddell, Justice of the Supreme Court of Ontario. He was the first foreign guest of the Association. He spoke at the meeting both in the afternoon and evening. His first address was a description of the Canadian courts and in the evening spoke about the century of peace between the two countries. It was voted at the meeting to make him an honorary member, the first one in the Association's history.

Another speaker at the meeting in the evening was F.X. Belleau, the first Maine lawyer of French Canadian heritage. He was Clerk of Courts in Auburn for many years. His speech was humorous. He said that after the battle of Belleau Wood people began properly pronouncing his name, whereas before he had been called every name but his own, ranging from Bellew to Ballew to Bellows. His speech was interrupted by applause several times and at the end the audience rose and applauded.

The theme of the next meeting in 1925 was the commemoration of the U.S. and Maine Constitutions. The principal speaker was Charles Warren, formerly Assistant Attorney General of the United States and author of The Supreme Court in United States History, for which he was awarded the Pulitzer Prize for the best book on history for the year 1922. Both he and the President, Hannibal E. Hamlin, spoke at the afternoon session January 14, 1925, in the Judiciary Committee room in the State House. Hamlin spoke first and his subject was the Maine Constitution.

Charles Warren's subject was "The Practical Operation of the Proposals of Senators LaFollette and Borah regarding the Supreme Court of the United States." LaFollette's scheme was to provide by constitutional amendment that if the Supreme Court found a statute unconstitutional and the Congress reenacted the statute that it could not be found unconstitutional again. The net effect was Congress would have the final word as to constitutionality.

Senator Borah's scheme was to introduce a bill providing that the Supreme Court must have a seven vote plurality of the nine members in order to declare an act of Congress unconstitutional. Warren pointed out that this bill would give a minority of three or one-third of the Court the ability to determine the constitutionality of any statute. Warren very persuasively demolished both proposals.

That evening at the banquet there were the usual responses from the guests at the head table. In addition, there was something new: "A dissolving view stereopticon set up with a silver stereopticon screen." A series of slides were shown totaling 189, and concluding with Proverbs 22:28: "Remove not the ancient landmark, which thy fathers have set." The slides consisted of pictures of the old state house in Boston in 1793, John Adams, Independence Hall, Alexander Hamilton, James Wilson, Oliver Ellsworth, James Madison, John Jay, John Marshall, several pictures of the U.S. Supreme Court and many other landmarks of legal history.

That year all of the justices of the Maine Courts were invited to become members of the Association and all accepted. Previously it had been felt that they should not belong to the Bar Association, that judges present might tend to inhibit free discussion of issues, but Chief Justice Cornish wrote "that theory has been dissipated."

Justice Albert M. Spear, an original incorporator, responded to the invitation that "the Association has done much to promote the high standing achieved by the Bar of Maine, in the observance of legal ethics, respect for the dignity of the court, and the conception of law as a system of justice rather than a code of technicalities."

And that year the ever faithful secretary, Norman L. Bassett, conducted a census of the Bar of Maine and of the Association. He counted 869 lawyers in Maine of whom 328 were members of the Association or 38% of the total.

The year of 1925 was the last year Bassett served as secretary. He had succeeded Leslie Cornish in 1907, the year Cornish was appointed to the Court. Cornish was the first secretary and served each year until 1907. Cornish was an uncle to Bassett. Their fathers conducted a general store in Winslow under the firm name of Cornish and Bassett. Cornish resigned from the Supreme Judicial Court March 1, 1925 and Bassett was appointed in his place on March 26. Cornish died the June 24th following. Bassett served on the Court five years. At a Kennebec term, his home county, he was stricken with illness and died soon after on September 29, 1931.

Carroll N. Perkins said of Bassett that "the Maine State Bar Association can have no finer ideal than the carrying forward of its mark upon the high plane on which he maintained it. Quoting from the classics which he knew and loved so much, he might well say

'Praise me not too much, nor blame me, for thou speakest to the Greeks who know.'

At the 1927 meeting Chief Justice Scott Wilson spoke about efficiency in the Courts and suggested again at a Bar meeting the old idea of a separate trial court. This suggested reform set in motion proceedings which did in fact result in our state-wide Superior Court. At the evening session the speaker was Arthur G. Staples who was introduced by his friend, George L. Emery, and pointed out that the "newspaper profession is nothing. It is simply a disease." Staples had edited three years before a volume containing William R. Pattangall's "Meddybemps Letters," "Maine's Hall of Fame" and memorial addresses. Staples was well acquainted with the members of the Bar and the judges. He said that "for 30 years I was a reporter of Court-trials, and other sporting events for newspapers." The theme of his speech was the relations of the client to the Bench and Bar. It was a very humorous and knowledge-

able presentation. He reminisced about the various lawyers and judges he had known and some of the experiences with them. He told about an article he had written as a young reporter about a case to be tried before Justice Charles W. Walton. Walton, in open court, said to him referring to the newspaper article, "Don't you know, sir, that you have no right to argue cases, state law and hand down decisions in my court before they come to trial." Walton then threatened him with jail but decided against jail because Staples looked "so much like an idiot." He then said, "Mr. Sheriff remove this young man from the Court-room."

Staples was the first lay person to be the speaker at a banquet of the Association.

At the next meeting in 1929 the speaker was George R. Nutter, former president of the Massachusetts Bar. He spoke on standards for lawyers, admission, character and so on.

Justice Luere B. Deasy spoke on the need for reform of the rules of pleading. He gave the most devastating critique of Maine's common law pleading system there is in the literature on the subject. Deasy said "Suppose — noticing Brother Dunnack here, who was a minister before he was promoted — suppose that ministers were hamstrung by rules and precedents as the lawyers are. What would happen? A poor dying penitent sends for his spiritual adviser. He prays fervently, passionately, tearfully, and in his prayer he uses instinctively a part of that greatest of all petitions, the Lord's Prayer. His spiritual adviser says to him, you seem to have a good case; I think you are thoroughly penitent; but you can't have any relief because you have used the wrong form. You prayed, 'Forgive us our debts.' You ought to have said 'trespasses.' Your prayer sounded in contract when it ought to have sounded in tort, and now, he says 'you will have to go to Hell.'"

Through Tests of Time: Great Depression and World War II

OVER THE NEXT TWENTY YEARS the great depression and World War II absorbed society's energies, including the MSBA. The emphasis of the Association during those years was on the social side and the speakers tended to be more humorous and entertaining than analytical of a heavy subject. There was during that period little, if any, growth in the rate of litigation. The new Superior Court was not overburdened with work, nor the Law Court. It was not a time for urging reform in the law or legal system. The number of lawyers in Maine actually decreased from Bassett's census in 1925 of 869 to 734 in the 1950 Federal Census, of whom 19 were women. This is not to say the Bar Association was moribund or inactive. It was a case of carrying on rather than new ventures.

The format for the meetings through the 1930's was a biennial meeting in January at the State House. The principal speaker was scheduled for the afternoon program, followed by a business meeting. In the evening a banquet was held at the Augusta House at which typically everyone at the head table gave a few remarks called "responses." These were usually in a light vein. The responses of William Pattangall and Luere Deasy were as humorous as such things can get. Another great wit at these meetings was U.S. District Court Judge Hugh McLellan, born and reared in Belfast and the second honorary member of the Association, admitted in 1935. On the serious side he spoke in 1933 on the practice of law by corporations, (something he did not approve of), such as trust companies, banks, collection agencies and trade organizations.

The meetings were biennial until 1941 when it was voted to hold annual meetings. In 1942, at the Bangor House, the first annual meeting was held since 1905.

There were some notable speakers at the meetings during the 1930's: in 1931 William Draper Lewis, Director of the American Law Institute, Bainbridge Colby, Secretary of State in Wilson's administration, in 1937 Dean Gleason Archer, founder of Suffolk Law School, a Maine native of Great Pond, and in 1942 Walter P. Armstrong, President of the ABA. Also in 1942 Professor John M. Maguire spoke on the Model Code of Evidence. A vigorous discussion took place afterwards.

Very little was heard of reforms. Justice James H. Hudson of Guilford spoke on the subject of pretrials, but nothing came of it. When Harold Murchie was President, he said he looked up the purposes of the Association and found they were to promote the interests of the legal profession and to institute legal reforms. He went on to say "that these purposes have been more honored in the breach than in the observance In our meetings over a term of years those purposes have been pretty largely overlooked." He then went on to comment about his own experience or impression over the same 25 years he had been a member. "I have heard some very interesting addresses, I have received a good deal of instruction, and I have enjoyed a lot of good fellowship at meetings of the Maine State Bar Association, but I would have to scratch pretty hard to find anytime when our meetings had been designed to accomplish either one of these purposes." Murchie, later Chief Justice, got Dr. Edwin Borchard as speaker at the 1941 meeting to speak on the uniform Declaratory Judgments Act. The act was adopted by the Legislature that year. Murchie thought Professor Borchard's speech was instrumental in the passage of the act in Maine.

A first for the Maine Bar occurred in 1939 when a joint meeting was held with the New Hampshire Bar at the Marshall House, York Harbor on September 6. A picture was taken of the group. It was reported that "more than two hundred members from both Bars were present and an unusually beautiful day, such as Maine and New Hampshire both experience in early September, was spent by the members in getting acquainted and in other very enjoyable ways."

Ralph W. Leighton, the secretary ever since Bassett's elevation to the Court, noted in the call of the meeting for January 8, 1941 that it was the 50th anniversary of the organization and hoped there

would be a large attendance at the meeting. He said it was expected that four of the six living original members would be present, that is, John A. Peters of Ellsworth, John A. Morrill of Auburn, John W. Manson of Pittsfield, and Charles O. Small of Madison. The only one able to appear at the banquet was U.S. District Court Judge John A. Peters. In his response at the banquet he said he spoke "in behalf of our small but still valiant band of survivors of your first organized group." He also spoke about some of the history of the Federal Courts and urged the state courts adopt the new Federal Rules of Civil Procedure.

The secretary also entered a plea for new members. This was a subject taken up at nearly every meeting and great efforts were made over the years to get as many members as possible. At no time was there ever any restriction on membership. Over all the years membership varied very close to one-half the total number of lawyers practicing in Maine. At the 50th anniversary the membership in the Association was increased to 513.

Many lawyers felt the Bar Association was simply not living up to its potential in the line of reform and improvement of the law, legal system, and administration of justice. Ernest L. McLean did not think he was getting much out of the Association except fellowship and decided perhaps he was at least partly responsible in that he had not made any suggestions to improve things at the meetings. He decided he would speak up. He suggested that the Bar should take an active interest in the appointment of judges of all the courts. There was general agreement on the suggestion but no action was taken regarding it.

That evening the speakers, in addition to Professor Borchard and Judge Peters, were Governor Sumner Sewall, Raymond Fellows, then of the Superior Court, later Chief Justice, Chief Justice Guy H. Sturgis, and James Blenn Perkins, Jr. of the Lincoln County Bar. The Chief Justice spoke about his duties as Chief Justice. Judge Fellows spoke about the origins and functions of the Superior Court. He said "The Superior Court is the court that in the twinkling of an eye makes the law; it makes the law between the question and the answer; and so good does it make the law that it takes six able-bodied men, working six months and working day and night, to convince themselves that the Superior Court is wrong

and that the exceptions should be sustained.” Judge Fellows also, as was his wont, presented several verses of his doggerel concerning the Superior Court; herewith a sample verse:

Some are sweet, kindly Judges, some “quick on the cut,”
Some, like cold blooded Jeffreys, tell the Courtroom
“what’s what”

Some are really good natured, and some are quite “raw,”
Some know human nature, and some know some law.
Some are quiet and helpful, and some want to fight,
Only trait held in common - all try to do right.

A Century of Law & Justice: The Second Half

THE 50TH ANNIVERSARY was noted at the meeting but no special program commemorating the occasion was arranged. The mood at that time did not encourage celebrations. The war had begun in Europe. The draft for the program of national defense was in effect and the level of anxiety for the future was agonizingly high. Pearl Harbor was less than a year away.

At the 1941 biennial meeting it was voted to have annual meetings. The Bylaws provided that the annual meetings of the Association be held in January at Augusta in the years in which the Legislature met or in other words in the odd numbered years. Later this meeting in Augusta was more accurately called the Biennial Winter meeting and after 1941 the Summer meeting was called the Interim Summer meeting. In 1952 the Bylaws were amended so that the summer meeting became the annual meeting and the Augusta meeting in January when the Legislature was in session became the biennial winter meeting.

The first annual meeting since 1905 was held at the Bangor House in January 1942. Owing to the request of the government not to hold unnecessary meetings during the War, only two meetings were held until 1947, when the regular annual meeting schedule was resumed.

The biennial winter meeting in 1943 in Augusta was brief, with no dinner. Justice Robert A. Cony spoke about the courts and Israel Bernstein spoke about the Soldiers and Sailors Relief Act, with a discussion afterwards. Some idea of the mood of the meeting can be gathered from the remarks of the President, Louis C. Stearns:

We are now living in a world of disaster and
cataclysm — human lives and human rights are
held in entire disregard by our enemies.

This is a time when the legal profession is on trial to do its part. Our younger men can and will fight — some will give their lives on the battlefields; others will return to a civilian life, many broken and wrecked physically and mentally. Our older men, lawyers and laymen alike, must necessarily carry on — we must assume the responsibility for carrying on a “normal” life for our sons to return to.

The new secretary, Herbert E. Locke, stated that he had a list of Maine lawyers in the armed services and asked all to examine and to add any names omitted. Two years later he could report that there were about 814 practicing attorneys in the state; that of this number about 542 were members of the Association and 52 were in the armed services. The list of lawyers in the services is not now to be found.

At the 1945 meeting the President that year, Charles E. Gurney, suggested the Association look into the idea of an integrated or unified Bar. A committee was appointed to study the matter but nothing came of the suggestion at that period.

Senator Owen Brewster spoke at the meeting on the subject of international relations and John D. Clifford, then U.S. District Attorney, later Judge of the U.S. District Court, spoke on the practice in the Federal Court, and Justice Arthur Chapman spoke briefly for the Supreme Judicial Court.

The 1947 meeting was held at the Samoset Hotel at the Rockland Breakwater, the first of many held there. The summer meetings were held at the Belgrade Hotel, Belgrade Lakes, from 1948 until 1953 and then at the Samoset from 1954 to 1969. The hotel burned sometime after that meeting and the 1970 meeting was held at the Balsams in New Hampshire and for the first time at the Colony, Kennebunkport, in 1971.

At the winter meeting in 1947 Richard H. Field, retired general counsel of the Office of Price Administration during the War spoke about the success of that agency checking inflation.

Justice Robert B. Williamson, then of the Superior Court, spoke about the post War deluge of divorce cases. He said he had kept account of 180 divorce cases that autumn and that one-third were war-affected. In summary, he said, “The lesson I have learned is that war leaves its debris at home as well as on the battlefield.”

After Justice Williamson's speech, a veteran of six years of war, Peter Mills, spoke about some of the issues facing the post-war world. He pointed out the great changes in the world and added that

It is not my purpose here to be too cosmic in the scope of these remarks, or to convey the impression that we, as Maine lawyers, should immediately discontinue our customary travail of deed making, will drawing, bill collecting and the hundred and one other things that go into our business and give ourselves over to a study of what to do about the atom bomb. What I am trying to get at is the thought that these things which have affected the world in the past few years are not apart from, but at home with us.

And now, after more than 40 years of the Cold War and communist scares and Middle East crises we can all attest to the wisdom of his remarks, even if we go no further than the nearest gas pump. Indeed, world problems are "at home with us."

At the summer meeting James Boyle spoke about practice before the Public Utilities Commission and Ernest Goodspeed about criminal practice and procedure in Maine.

The summer meeting at Belgrade Lakes in August 1948 was a two day meeting. Lodging and meals for the two days was \$12.50 per person. Justice Harold H. Burton of the U.S. Supreme Court spoke briefly. He was in Maine visiting Senator Owen Brewster. They were roommates at Bowdoin.

The principal speakers were Joseph B. Campbell on "The Maine Factors Lien Law" and Mayo Adams Shattuck on "Estate Planning."

The balance of the first decade after the War followed in general the old format of dinners and speeches, business meetings, and some mild discussions about reforms and improvements in the legal system. It was difficult for committees to meet and to carry out any plans. The work for the officers was overwhelming at times. There was no staff. The organization simply did not have the structure to carry on and sustain any meaningful programs.

In 1949 the dues were raised to four dollars and the membership was 558 of which 14 were women. The year before the

treasurer collected \$1,406.50 from dues, interest, and sale of reports of proceedings. The expenses were \$1,992.20.

The principal speakers during the remainder of that decade from Maine were L. Smith Dunnock on Uniform Simultaneous Death Act, Frank W. Linnell on labor law, Nathaniel Haskell on the Uniform Commercial Code, Jotham Pierce on joint tenancy, Frank Coffin with some suggestions for reforms, Ernest Johnson on the new Maine sales tax in 1951, Scott Brown on the trial of cases, Boyd Bailey on "Tax Clauses in Wills", Sidney Thaxter on "Women's Rights under Maine Law", James Desmond on negligence law, Brad Hutchins on the Dead Man's Rule, and Fred Scribner on personal property as security for debt.

Probably the most consulted paper published in the M.S.B.A. Reports was the article by Justice Edward F. Merrill entitled "Some Suggestions on Taking a Case to the Law Court" appearing in Volume 40. He had the reputation of being about the best common law pleader in Maine. His article, now of only historical interest, was the guiding star for lawyers intending to appeal. The appeal process was somewhat bewildering, involving bills of exceptions, new trials, true appeals in equity, and appeals from denial of a new trial in felony cases. There were separate rules and statutes for equity cases, civil actions, and criminal cases.

During these years Chief Judge Calvert Magruder of the U.S. Circuit Court of Appeals for the First Circuit spoke about the work of that Court in 1949. Two years later at the winter meeting in Augusta, Senator Richard M. Nixon told about the Alger Hiss case. At the summer meeting Senator Robert A. Taft gave an address entitled "The Place of the President and Congress in Foreign Policy." This address appeared as chapter 2 in Taft's book A Foreign Policy for Americans.

The next year, 1952, Harold L. Cross, a leading expert on libel and the First Amendment who had a home near Skowhegan, gave a speech called "Our Free Press - How Free." And that same year Justice Raymond Wilkins of the Massachusetts Supreme Judicial Court gave an address called "The State Appellate Court Now and Forty Years Ago." Vermont Hatch, former Governor of Illinois and National Commander of the American Legion, spoke in 1953 on "The Treaty Power and the Case for Constitutional Amendment."

In 1955 Dean Erwin N. Griswald of Harvard Law School spoke on civil liberties, and Judge Harold R. Medina who told about his trial in 1949 of the eleven communists. It was a very difficult trial. One of the tactics of the defendants was to break the presiding judge during the trial, something quite unknown in this country before that. Judge Medina said that when he finally realized what they were up to he could proceed with the trial and did.

In 1954 the first panel discussions of legal topics were held at the summer meeting at the Samoset. The three panels were discussions of real estate law, public relations, and on labor law. They were a great success, the first effort at continuing legal education by the Association.

Another standard feature of the summer meeting was a report by a member serving in the Legislature of important new and changed legislation. Leonard F. Williams reported in 1947, Edmund S. Muskie 1949, John F. Ward 1951, Willis A. Trafton, Jr. 1953, and Alan Woodcock, Jr. 1955.

A Revolution: New Rules for Procedure

THE GREATEST REVOLUTION in the history of the courts, law, and lawyers in Maine began with a speech by Justice Francis W. Sullivan at the summer meeting at the Samoset, Wednesday morning, August 29, 1956. He had been asked to speak at the beginning of the summer on Pleading and Practice. In his speech he said "The invitation indicated that there was a rather lively interest amongst our Bar in a survey of our system. It is a long, long time since any comprehensive, official reappraisal has been entertained." There was indeed a lively interest in changing the common law pleadings and procedure. The younger members of the Bar had had virtually no training in common law procedure. Most law schools did not offer a course in it. Harvard Law School, for instance, based its course in civil procedure upon the Federal Rules of Procedure. Owing to this general lack of training in common law procedure, the Maine Bar Examiners had given up conducting an integrated examination in common law pleading and had downgraded it to a question or two in the miscellaneous part of the examinations.

The Institute of Judicial Administration, Justice Sullivan said, had classified the states according to pleading and practice systems and found seven common law states — Florida, Virginia, West Virginia, Rhode Island, Vermont, New Hampshire and Maine — four of them in New England. It was on the whole very difficult to carry on with common law pleadings.

Justice Sullivan further commented that an adequate study "will require at least a few years of research and concentration by many fine talents. The subjects are of sufficient importance to justify any pains exerted upon them."

As noted before, the question of changing the rules of civil procedure and practice surfaced at the first annual meeting of the

Association in 1892, and periodically thereafter such as the critique of Justice Deasy, and the speech of Judge Peters. Frank M. Coffin, at the biennial meeting 1949, moved to appoint a committee to study both the state and federal civil pleading and procedure, and submit such recommendations as the committee might see fit. Two years later the committee reported that the matter was "important enough to merit a thorough-going and deliberate investigation by a body equipped to make such a study as would be required if constructive results are to be reached." The Committee implied the job could not be done by a committee of volunteers, and recommended that the Maine Judicial Council be reactivated to do the work. The members of the Committee were Carroll N. Perkins, Chairman, Ernest Goodspeed, James Mitchell, Richard S. Chapman, and Frank M. Coffin. The Chairman noted that Coffin did most of the work. The Committee was discharged, after its report was accepted.

After the Sullivan speech there was an open forum which had been previously arranged and over which Herbert Locke presided. After the discussion about the idea of a study of the rules of procedure had ended, Israel Bernstein moved to place the matter on the agenda for the business meeting the next day. It was so voted.

The next day, Israel Bernstein offered another motion that the Maine State Bar Association recommend and urge the Legislature to enact a statute empowering the Maine Supreme Judicial Court to prescribe rules for the several courts. A debate followed and several amendments were offered. Chief Justice Merrill offered an amendment that the State Bar be polled whether they favored Bernstein's motion and a committee be appointed to take care of the polling. Another amendment was to delay a vote until the next winter meeting, and another that Sullivan's speech be printed and distributed along with the postcard polls. The amendments all passed. Appointed to the Committee were Israel Bernstein, Edward F. Merrill, Peter Mills, Simon Spill and Charles Smith.

At the next winter meeting in Augusta, Bernstein reported for the Committee. He said every member of the Association was sent a copy of Sullivan's address, a copy of a report of the Judicial Council, a copy of Bernstein's motion, a brief statement of the

purpose of the motion, and a ballot with two questions. First: should the rules of procedure be changed? Second: should the rules be changed by the Legislature or the Court? Of the 656 members of the Association 183 voted, which the committee felt was an extremely high vote. Thirty-two voted against and 152 for changing the rules and giving the court authority, roughly a vote of five to one in favor. At the meeting there was another vote to accept the Bernstein motion.

The Committee of the Judicial Council, the Council having been reactivated by Governor Muskie, consisted of Leonard A. Pierce, as chairman, Justice Sullivan, Frank F. Harding, George B. Barnes, and George A. Cowan, with Chief Justice Robert Williamson, a member *ex officio*, recommended that the court have the rule making power and that the Legislature appropriate sufficient money for the court to hire a consultant to advise the court.

At the summer meeting, 1957, of the Association, Chief Justice Williamson announced the court's Advisory Committee on Rules. The chairman was Leonard A. Pierce, George B. Barnes, Israel Bernstein, Samuel W. Collins, Raymond E. Jensen, Frank W. Linnell, Herbert E. Locke, Vincent L. McKusick, Edward N. Merrill II, James E. Mitchell, Harold J. Rubin, and James H. Titcomb. The Legislature had passed the proposed act conferring rule making power on the Supreme Judicial Court, and had appropriated \$6,000 for the project.

The Chief in a very able talk set the time and mood for the whole project: "In approaching our study, no one of us must take the view 'I am for the federal rules' or 'I am for common law pleading.' We must first find the facts before we reach conclusions The problem is: what is best for us in Maine for the present and future It lies with us to see that our action measures up to the high standards of our heritage. Our work as lawyers and judges, if it is to be of durable value, if it is to be of worth not only for the present but for the future, must be of such quality that our fellow citizens will have confidence that their trust in us is well deserved."

Professor Richard H. Field of Harvard Law School, Maine born and no stranger to the Maine Bar, was retained as consultant for the proposed new rules of procedure. He gave a progress report at the summer meeting 1958.

He said that the Advisory Committee had early on voted to use the Federal Rules as a framework with "such modifications as seem advisable for Maine." His progress report contains a very fine description of the approach and thinking of the Advisory Committee in preparing new rules of procedure for Maine. Field commented about the dread most lawyers had about the new rules as follows: "None of us, I suppose, really relishes the idea that a store of painfully acquired knowledge is to be swept away and that we are to be reduced to a position of equality with those who never acquired that knowledge."

At the Biennial Winter Meeting, January 22, 1959 at Augusta, Professor Field and the Advisory Committee members made themselves available for an open discussion of the new rules. Copies of the tentative draft of the Maine Rules of Civil Procedure had been previously distributed. The open discussion was conducted by a plan to divide the rules into categories for discussion for a certain period of time so that all the rules would get to be discussed. The first category was Rules 1 through 6, discussion time one hour and then half hour discussions of the remaining categories. A very good discussion took place and lasted all afternoon.

The rules were subsequently promulgated by the Supreme Judicial Court effective as of December 1, 1959. Chief Justice Robert B. Williamson wrote concerning the new rules project that "Preparation of the Rules has been a happy experience of cooperation of the lawyer, the law teacher, and judge in the best traditions of the profession for the better administration of justice and for the good of the state." He called it a "great adventure designed to improve the administration of justice." In the Fall of 1959 workshops were held around the state in order to educate the Bar in the new rules.

More Reform: The Association Reorganizes

NEVER BEFORE IN MAINE had such a radical change taken place with respect to a fundamental body of learning, the old learning in common law pleading and equity pleading almost all cast away and an entirely new system replacing it.

There had been great changes in the administration of justice in Massachusetts when Maine was a part of that Commonwealth, and after Maine became a separate state. During the Andros regime in the 1680's there was a radical reorganization of the system of courts and legal profession and after the Glorious Revolution and the Charter of William and Mary of 1691 there was a continuation of changes. During this time the system of administration of justice was formed which lasted over 100 years. The first decade after 1800 produced the *nisi prius* revolution which had the side effect of producing a modern law court issuing published decisions. After Maine became a state in 1820 there were two dramatic changes in the system such as the creation of the Law Court and abolition of the double jury trial court system.

But the process of change and reform which began in 1956 and lasted until 1981 covered not only procedural reform but substantive reform, court organizational reform, and Bar Association reform consisting of a partial unification of the Bar and a completely new organization of the Maine State Bar Association. A mere listing of the changes conveys a vivid picture of the extent and unrelenting pace of the changes over the space of 25 years. Next after the new Civil Rules was the creation of the Maine District Court 1961, Uniform Commercial Code 1964, Maine's Rules of Criminal Procedure 1965, reorganization of the Maine State Bar Association 1968, an Act to Provide Elected District Attorneys 1973, Court Administration Act 1975, Maine Rules of Evidence 1976, Maine Criminal Code 1976, partial unification of the Bar 1978, Administrative Procedure Act 1978, and the Maine Probate Code 1981.

Besides the Sullivan speech at the summer meeting 1956, there was a paper delivered by Morris Cox, Clerk of the U.S. District Court and a great authority on federal pleading and practice. he was given special recognition by the Maine Advisory Committee for his help and expertise in the preparation of the Maine Rules of Civil Procedure.

At the Banquet-Post Prandial, Governor Muskie spoke, making his second appearance as Governor, and Chief Justice Raymond Fellows spoke and read one of his little *jeux d'esprit*, the last lines of which herewith:

That men we call our Judges
Are just like me and you.
The only difference I can see
Is the one I've pointed out,
The old Maine Judges never die,
They resign and fizzle out.

Louis Wyman, Attorney General, New Hampshire spoke on Communists at the winter meeting 1957. At the summer meeting Maine Senator Benjamin Butler gave the customary report on the doings of the last Legislature and Powers McLean spoke on Corporate Organization. Horace Hildreth, former Ambassador to Pakistan, spoke about Pakistan.

In 1958 the Association took part in the first Law Day which was proclaimed by President Dwight Eisenhower and which has been a prominent activity of the Association ever since. A committee reported that a committee on judicial appointments was not needed and the forthcoming regional meeting of the American Bar Association to be held at Portland October 1-3, 1958 was discussed. At the Biennial Winter Meeting, Robinson Verrill reported on the Portland meeting, the first ABA meeting held in Maine in 50 years, the only previous meeting was the ABA annual meeting held in 1908 at which meeting Charles F. Libby, first President of the Maine State Bar Association, was elected President of the American Bar Association. David A. Nichols and Robinson Verrill were co-chairmen of the meeting. There was an attendance of 517 lawyers and 156 wives and guests, 16 special guests, making a total of 689.

The program included seven "workshops", covering a wide range of subjects, one of which was continuing legal education which Ross L. Malone, President of the ABA was emphasizing during his term.

There was a Maine lobster dinner and the Cumberland Bar sponsored a reception. Governor Thomas E. Dewey was the speaker at a banquet in the Eastland Hotel. Another notable guest was the biographer Catherine Drinker Bowen, author of biographies of John Adams, Oliver Wendell Holmes, and Lord Chief Justice Coke. Lewis F. Powell, Jr. chairman of the ABA regional meetings committee wrote that the president Ross Malone and others agreed it was one of the best regional meetings the ABA ever sponsored.

At the summer meeting 1959 there was an address by Paul A. MacDonald on "New Laws Pertaining to Motor Vehicles," and James L. Reid gave a paper on the unusual subject of "The Law of Torts in Nuclear Cases." George W. Weeks gave the set piece on the last Legislature.

The next year Professor Delmar Karlen of the Institute of Judicial Administration spoke about the proposed Maine District Court, and Benjamin Berman gave a talk about his 46 years of practice.

Berman said that "the young lawyer must develop a tenacity for an ideal. He must be imbued with the impulse that the practice of law is a privilege as well as a profession: that it is not a private business and its paramount aim is not in the attainment of material success. In his devotion to the ideal, he must bear in mind that in a large measure he is a servant of society, and the greatest compensation is the satisfaction he has received in the thought he has, in some measure, assisted in the relief of the distress of mind of a fellow human being." After reviewing nearly a lifetime at the Bar in Androscoggin County he concluded by stating "In this discourse I have attempted only to hit the high spots in an effort to encourage the younger members of the Bar to remain dedicated to the ideals of the profession and to strive with all their might and with all their energy to become sound, resourceful and dedicated lawyers, to the end that when they reach the twilight of their life's work, and descend the downgrade of the mountain, they may continue on the

journey of life with the satisfaction that they have been true to their oaths and have served well their fellowman."

The first report of the Title Standards Committee was given by John L. Easton, Jr. the chairman. The other members of the Committee were Dean F. Jewett and Robert B. Williamson, Jr. The work of this committee over the years has been of great importance to bringing uniformity and consistency in title searches and conveyancing.

Sumner Bernstein moved that the Association support the proposed merger of the University of Maine and Portland University Law School "to encourage and foster legal education in this state." The motion passed and set the legal profession in Maine on the most important single course of this century. The law school which resulted has been one of the most important legal institutions to develop since the old law school was discontinued just after World War I. It again gives the profession intellectual focus.

The Association: Administration of Justice

AS WE HAVE SEEN the great revolution in the administration of justice system was well under way by the 1960's. The Bar Association was at the leading edge of all the activity. Many ideas for change originated among the members of the Association, while proponents of other ideas petitioned the Association's support.

Some of the most important of the changes supported by the Association were a comparative negligence statute, Bridging the Gap program for new lawyers, an annual Bar Directory, Maine Digest, Client Security Fund, Central Registry of Attorneys, Law Clerks for the Law Court, Pine Tree Legal Services, and the Maine District Court Bill.

The Law School continued to receive the enthusiastic support of the members of the Association. Dean Edward S. Godfrey reported each year on the progress of the Law School, its needs, faculty, and programs. The Association had a Law School Committee. In 1962 at the summer meeting Arnold Veague reported for the Committee that their purposes were to study and report on ways in which the Association could assist the Law School in three general areas: (1) in completing the library, (2) in increasing the student body, and (3) in obtaining accreditation. The principal problem was putting together a library. An appeal was sent out to members of the Bar and between 2000 and 3000 volumes were donated, and a new appeal was made for cash donations to the library, and a recommendation was made to raise \$12,000 from members of the Bar.

At that same summer meeting Dean Godfrey gave his first report on the brand new Law School. His report is remarkably prophetic of the problems the Law School would face, and showed his determination to keep the standards of the school high. The Dean's contribution to the State of Maine by putting the Law School together has been great indeed.

By letter dated January 17, 1961, Governor John H. Reed proposed to John P. Carey, the President of the Bar Association, that the Association put together a committee to evaluate the qualifications of lawyers suggested for appointment to the Bench, something along the lines of the system of the ABA with respect to Federal Bench appointments. It was voted that the Association accept the invitation of the Governor and confer about the matter, and that the Executive Committee handle the conference. The next year President William B. Mahoney reported that the Committee on Judicial Evaluation, Chief Justice Merrill chairman until his death, and succeeded by Justice Edward P. Murray, put together a plan. The plan was similar to the ABA plan. The committee to be appointed to have jurisdiction of the evaluations was to rank a possible appointee as either "exceptionally well qualified," "well qualified," "qualified," or "not qualified." The Executive Committee was designated to handle the matter.

During the 1960's some of the out-of-state speakers were Professor Albert M. Sacks of Harvard Law School 1961, Sylvester C. Smith, President of ABA 1962, Justice Felix Forte of Massachusetts Superior Court 1963, Father Robert F. Drinon, S.J., Dean Boston College Law School 1963, Justice John V. Spaulding, Massachusetts Supreme Judicial Court 1963, Jacob D. Fuchsberg, New York Bar 1964, Charles Donahue, Solicitor of Labor 1964, Chief Justice Frank R. Kenison of New Hampshire 1965, Glenn R. Winters, Executive Director American Judicature Society 1965, Moe Levine of the New York Bar 1966, James D. Fellers, Chairman House of Delegates ABA 1967, and Justice Paul C. Reardon of the Supreme Judicial Court of Massachusetts 1967.

The legislative reports were delivered by James S. Erwin 1961, Joseph B. Campbell 1963, Floyd L. Harding 1965, and Harrison L. Richardson 1967.

The speeches given by Maine lawyers on various topics were as usual informative and on timely subjects. These Maine talks continued to be the most useful.

In 1962 Chief Judge Richard S. Chapman gave a progress report on the new Maine District Court, a description of the early formative months of the court. On the same program Justice Donald W. Webber spoke on the Durham Rule. The next year Richard E. Poulos, Referee in Bankruptcy spoke about the Wage

Earned Plan, Frank W. Linnell spoke about "Trial Techniques Under the New Rules," and Paul A. Wescott about the Uniform Commercial Code. Arthur A. Peabody spoke on the subject "Rents, Dividends, and Interest in the Probate Court" in 1964. The year after Albert J. Beliveau, Jr. talked on civil rights and Richard J. Dubord Attorney General on his job. In 1966 Herbert H. Bennett spoke on the Comparative Negligence Statute, and Judge Frank M. Coffin on the topic "The Bench and the Pit." In 1967 Congressman Peter N. Kryos spoke about "The 90th Congress - A Maine Lawyer's View."

In 1968, the last year under the Association's first set of By-Laws, Justice Charles Pomroy gave a talk entitled "How Far Can Counsel Properly Go in Oral Argument." This speech was concerned with jury trials. This talk was followed by a talk by Justice James P. Archibald entitled "The Proper Use of Findings of Fact and Law in Jury Waived Cases." These two papers were well received and much commented upon. They were published in a booklet and distributed to the Bar.

At the same meeting, Vincent L. McKusick, now Chief Justice, gave a paper on the history of the Maine Supreme Judicial Court, followed by the then Chief Justice Robert B. Williamson who spoke about the current condition of the courts and their functions.

The By-laws of the Association from the beginning had lodged the responsibility for the day-to-day operation of the Association in the Executive Committee. "They shall have charge of the affairs of the Association, make arrangements for meeting . . . and have such other powers as may be conferred on them by vote at any meeting of the association." By 1967 they were also the Grievance Committee, Legislative Committee, and Judicial Evaluation Committee. They had authority to fill all vacancies, admit new members, and suspend members for non-payment of dues.

A lot of the Committee's time was taken up in making arrangements for the meetings of the Association, getting speakers and planning programs. Complaints against lawyers also consumed long periods of time.

The State Bar Association did not consider or have any authority as to grievance complaints until 1931 when the Legislature amended the Removal of Unworthy Attorneys Statute by adding that a Committee of the State Bar Association was a proper party to

file an information against an attorney. Discipline matters before that were vested exclusively in the county bars as far as bar associations were concerned. In 1933 the Association voted that the Executive Committee be the Grievance Committee.

At the Biennial Meeting in Augusta 1951, George B. Barnes reported on adopting a code of ethics for the Bar Association. He recommended the American Bar Code, with a preamble he had especially drafted for Maine, which deserves to be shown in whole:

Preamble: The State of Maine is, under its Constitution, a free and independent state, and its government is that of a representative democracy wherein the three great, independent branches of Government are the Legislature, Executive, and Judicial.

The Judicial branch of Government is made up of the Courts of the state, and these Courts establish and dispense justice to all its people.

To the Bar of Maine is entrusted the effective functioning of the Judicial branch of its Government, and it is, therefore, a direct and sacred obligation of that Bar to guarantee that justice is maintained pure and unsullied. Upon this, the very existence of the Judicial branch of our government depends.

It is, therefore, of prime importance that the motives and conduct of the members of our Bar be governed so that they may deserve the approval of all just men.

To this end, the following canons of ethics are adopted by the Maine State Bar Association to serve as a guide of conduct for all members of the Bar of the State and, more particularly, for its new and inexperienced members.

These canons are not intended to be all-inclusive but, from their general pattern, members of the Maine Bar may be guided in questions of ethics that, by inadvertence, may have been omitted and in questions of novel impression.

The Code was adopted and 2000 copies were voted to be printed. This was the first Code adopted in Maine. The whole preamble and Code were printed in Volume 43 of the Maine State Bar Association Proceedings.

In 1967 the grievance system was reorganized and at the summer meeting at Rockland the next year John Ballou, the chairman of the new Grievance Committee, which consisted of 32 members, two from each county, reported that the organization of the Committee included what was called a Governing Sub-Committee which processed complaints in the first instance. John Ballou stated the functions of the Committee to be to (1) provide orderly processing of complaints, (2) to assess the complaints, (3) to channel valid grievances to prosecuting authorities, and (4) to shield lawyers from unjustified complaints. He thought the Committee performed the functions "passably well." This new organization of the grievance system was a great improvement over what the Executive Committee was able to do. John Ballou and his Committee devoted an enormous amount of time to the work of the Committee.

A very interesting study of the economics of law practice in Maine was done by the American Bar Association in 1963. George B. Barnes, the Chairman of the Economics of the Practice of Law Committee, of the M.S.B.A. said the report of the ABA study was "the single most valuable job ever done . . . for the lawyers of this state."

This survey found that the average Maine attorney in private practice earned about \$12,000 a year, while 17 percent of them earned \$20,000 or more. About one percent of Maine lawyers earned over \$35,000 a year, i.e., some 8 or 9 lawyers.

Lawyers not in private practice showed a median income of \$11,500.

Other matters considered in the survey were the reasons for limitations of income as perceived by the lawyers themselves. The principal reason given was ability of client to pay. This was the reason 41.5% gave. There was at that time in general use in each county a minimum fee schedule. As we have seen this system of minimum fees dates back to the 18th Century. Of the lawyers surveyed 30.8% gave the minimum fee schedule as a reason for

limitation of their income. Other reasons were statutes and rules of court, and fees charged by other attorneys.

The survey revealed that in 1963 office expense ranged from 24.6% of gross income for offices of 7-9 lawyers to 33.1% for solo practitioners.

Maine lawyers had a net worth from 2-6 times their annual income, the higher the income the higher the multiple.

As we have seen above the county Bars had maintained minimum fee lists from the time organized Bars began. The minimum fee in Maine remained remarkably steady during the 19th Century and continuing to the time of World War II. Even as late as 1940 the average income of lawyers exceeded that of doctors. However, by 1965 doctors had increased their annual net earnings by 157% and dentists by 83%. Lawyers trailed way behind at 58% increase. When these facts were made known there was an effort made to bring attorney's fees into line.

A committee was appointed in Maine to do something about the situation and the study of 1963 was one result. Another result was a change of emphasis in the calculation of fees. The studies had emphasized that lawyers ought to keep time records and charge on an hourly basis rather than on a set fee basis as formerly was done. In the old minimum fee schedules hourly rates are rarely mentioned.

Some idea of the fees charged over the years can be gathered from around the state. In 1829 in Cumberland County the fee for advice was \$2.00, for arguing a civil case or a divorce in the Supreme Judicial Court, \$12.00. Seven years later the fees in Washington County were the same. By the time of the Civil War in 1863, the fees had not increased but were the same as the earlier Cumberland and Washington County fees. At the time of World War I the fee in Penobscot County for advice was still \$2.00, but the fee for divorce and arguing a case in the Supreme Judicial Court had doubled to \$25.00. The fee for a will was \$3.00, a deed \$2.00, mortgage and note \$3.00 and title searches at \$2.00 an hour. And, by 1929 in Hancock County advice was \$3.00, will \$5.00, deed \$3.00, Registry of Deeds \$3.00 an hour, divorce \$100.00, and preparation and trial in the Supreme Judicial Court \$50.00. The fees in Hancock County

in 1950 were advice \$3.00, will \$7.50, deed \$5.00, Registry of Deeds \$6.00 an hour, and preparation and trial in Superior Court, \$75.00.

The Maine State Bar Association's Committee on Fees and Economics published in 1970 a 55 page manual on suggested fees. Royden A. Keddy and Robert F. Preti were co-chairmen. The emphasis for setting fees in the manual was on the time record and hourly rate basis. Suggested hourly rates were for 2 years practice \$15-\$25, 2 to 5 years \$20-\$35, 5 to 10 years \$30-\$50, and 10 years and over \$35-\$75. There were still some set fees retained such as oral argument in the Law Court \$500 plus hourly charges for all the other work involved such as preparing the record on appeal, research, and brief writing. The minimum fee for the trial of cases was \$400 per diem and for uncontested divorces with simple property settlements \$300.

Some two or three years after the State Bar Fee Schedule came out the U.S. Justice Department began investigating lawyers' minimum fee schedules as an anti-trust violation and Maine records were requested for examination.

After careful consideration of the situation and advice from the Committee on Fees and Economics, the Board of Governors passed a Resolution November 20, 1973 that in order to avoid possible future disputes or litigation the MSBA withdrew the Minimum Fee Schedule of 1970 and recommended all county Bars do the same with respect to any of their fee schedules. Two years later the case of Goldfarb v. Virginia State Bar, 421 U.S. 773 (1975) terminated the long and useful history of minimum fee schedules.

Association Growth: Reorganization and Revitalization

IN THE 1960'S more and more demands were made upon the State Bar Association and the Association simply was not set up to effectively respond. In these years there were as many as 24 committees besides the Executive Committee. Many of these committees required a lot of secretarial work and extensive mailings. The headquarters for the committees were ordinarily in the Chairman's office. The Bar Association had no home and no staff to handle all the work.

At the summer meeting in 1964 the President, Edward N. Merrill, II, commented upon the situation in his report:

In my opinion there are two factors that limit the successful execution of any comprehensive program of this Association; they are time and money. Active attorneys do not have the time to handle the details of any extended programs and this Association cannot present an adequate program on a volunteer basis and with the limited funds available. . . . It is my opinion that the time is fast approaching when this Association should have a central office and a full time, paid, executive secretary.

Merrill then went on and suggested the incoming President name a committee to study the matter "to determine how this Association can best serve its members and the public."

Merrill's recommendation that the Bar Association have a full time executive secretary and a central office was duly considered at the October 5, 1964 Executive Committee meeting in Augusta. It was the consensus of the meeting that such a program or change could not be undertaken until revenues were sufficient to sustain it. The annual dues at that time were \$8.00 and the total income \$7208.45. It was then suggested that perhaps an integrated Bar was

the solution to a more effective Bar organization. After discussion the matter was left that James Erwin would investigate about the New Hampshire integrated Bar and report back. At the next meeting on December 14, 1964 it was voted to attempt to get Glenn R. Winters, Executive Secretary of the American Judicature Society to speak on the integrated Bar. Winters accepted the invitation and spoke at the Biennial Winter Meeting at the State House.

Winters first pointed out that since the Civil Rights movement the word "integrated" had sort of superseded the meaning of integrated with respect to Bar activities and that "unification" was becoming the word to use, unified Bar instead of integrated Bar. He then recounted the history of the unified Bar movement and its advantages, pointing out that he was not there to tell the State of Maine what to do, that he would give information and not advice. After his speech there was a question and answer period.

The matter of a unified Bar was tabled at the next Executive Committee meeting February 23, 1965 because of the absence of Sumner Bernstein "this matter being of particular interest" to him.

At the Summer Meeting the President, George Blanchard, reported that in his opinion the proposal for a unified Bar had a "great deal of merit and we should move in this direction as soon as possible."

Sumner Bernstein carried the ball on the proposal for a reorganization of the Bar. A unified Bar was but one proposal. Others thought that strengthening sections was needed, and others weren't enthused about doing anything until further study. Bernstein gave a very persuasive speech for doing something and the reasons why a reorganization of the Bar was necessary. He pointed out that the problems of specialization, legislative representation, public relations and continuing education of the Bar were not being met. He also called attention to the responsibility of the Bar to assist those who could not pay for legal services. He moved for the appointment of a broadly based committee to pursue the matter. He said the Executive Committee "feel that this Bar Association must take a long, hard look at itself." It was voted that the President and Executive Committee be authorized to appoint "a special committee to review the structure and organization of the Maine State Bar Association."

At the November 12, 1965 meeting of the Executive Committee the appointments were made. Sumner Bernstein was appointed chairman. There were forty other members of the Committee, each county being represented.

President Benjamin Berman reported at the Summer Meeting at the Samoset, 1966:

I must again emphasize, as was done by President Blanchard last year, and by President Edward N. Merrill II, two years ago, that the ever increasing work of the association has made it absolutely necessary for this organization to employ a full time Executive Secretary, with a permanent staff, to discharge the various demands made upon the association.

Sumner Bernstein reported for the Committee on reorganization. The Committee had met the previous December and again the previous night at the August meeting of the Association. David Gregory, then a student at the University of Maine Law School, was a research assistant to the Committee. For his report Bernstein had prepared three charts. The first was a summary of the answers to questionnaires to bar associations throughout the United States. Another chart showed the associations with full time and part time executive assistants. The third chart showed the amount of annual dues across the country, Maine's dues at \$8.00 hardly showed.

Bernstein said the Committee felt that two basic concepts must be accepted: first, that the membership must become an active membership, and second, the necessity of an executive secretary.

The Committee proposed that the Executive Committee make a determined effort to make sure the committees are properly staffed and activated, and that the members be prepared to work hard. Two committees were singled out for particular importance: the Committee on Continuing Legal Education and the Committee on Judiciary. Next, the Committees on Public Relations, Unauthorized Practice of Law, and Grievances were to be strengthened.

The next step was to hire a full time executive with an adequate budget to staff the necessary programs. Next, that dues be raised to \$50.00 per year.

All these principles and proposals were accepted completely by the Committee. Bernstein said the problem then came up on timing. Jere Clifford pointed out that one of the key things to all the proposals would be the general acceptance by the membership. The whole Committee then concurred in this insight. As a result the Committee recommended that instead of taking action at this time, that the meeting be adjourned to the Winter Meeting so that all the members could be informed and given notice of the whole plan for reorganization. Bernstein said the idea of a unified Bar was given up as a large cross-section of the members felt it was too radical a step, that it smacked too much of compulsion.

After much discussion the Committee's report was accepted and it was voted that the Executive Committee implement it.

The 1966 Annual Meeting was reconvened at the Holiday Inn in Augusta, January 21, 1967. William Talbot, the President, presided. He and Chief Justice Williamson told the story of a Washington County night hunting case defended by Garth Sprague at his and Talbot's first Term of Court, presided over by Justice Williamson then on the Superior Court. The defendant, an old man, admitted to the jury he saw a deer in his automobile headlights, that he got out of his automobile, that he had a rifle, and that he fired at the deer, but he insisted only to scare the deer out of the road. The jury was persuaded.

After everyone had caught their breath another trial was begun. Back came the old man into the courtroom. He marched forward between the jury and the attorney examining a witness. He had received his rifle back but he came up to the bench and said to Justice Williamson, "I want muh shells." He was handed his shells and left finally.

Plans for the presentation of the reorganization issue to the adjourned meeting and for informing the Bar concerning the matter were handled by Sumner Bernstein and Dean Godfrey on behalf of the Executive Committee.

The members of the Executive Committee who guided the program of reorganization through this important period of the

Association's existence were William Talbot, President, James Erwin, President-Elect, Sumner Bernstein, Vice President, Joseph Holman, Vice President, Benjamin Berman, Immediate Past-President, Robert Marden, William McCarthy, Merrill Bradford, Charles Smith, and Ronald Hart, Chairman of the Junior Bar.

Sumner Bernstein reported again for the Committee at the Holiday Inn meeting on what had been done since the Summer Meeting. He and Dean Godfrey had prepared a brief memorandum, a copy of which was distributed to each of the members at the meeting. Bernstein said each county Bar had been contacted about the proposed reorganization, and many members of the Executive Committee had met with them. The lawyers at these meetings gave their overwhelming support to the proposed reorganization. Bernstein went over the memorandum with the meeting. It listed eleven functions for an Executive Committee to carry out, as follows: Survey the Committee structure and procedures, provide secretarial assistance to committees, publish and circulate materials, establish working relationship with county Bars, develop continuing legal education, represent the Bar Association before the Legislature, serve as a clearing house with other professional and business organizations, and with ABA, Courts, and the Judicial Council, coordinate legal aid programs, maintain records and statistics, and supervise arrangements for conventions, meetings, and programs.

Ralph Lancaster moved adoption of the amendments to the by-laws required to initiate the reorganization. President Talbot stated that he hoped the vote would be taken on the merits of the plan "and not a vote which contains three or four double negatives." After much debate and numerous mini-speeches, and a few side motions, all defeated, the Lancaster motion passed overwhelmingly.

Robert Preti commented to the meeting that "after three years of exhaustive labor on Sumner Bernstein's part, I think we owe him a standing vote of thanks." There was heartfelt applause and a standing vote of thanks.

Frank Linnell rose and called for a standing vote of appreciation for Sanford Fogg, the Association's loyal and diligent secretary for the past thirteen years, and all rose again.

Later Fogg gave a short history of the Association during his thirteen years as Secretary-Treasurer. In the 77 years since the Association was organized he was only the fifth Secretary and Treasurer. Leslie Cornish, the first, served from 1891 to 1907, Hermon Bassett, the second, served 1907 to 1926, Ralph Leighton, the third, 1926 to 1942, and Herbert Locke, the fourth, 1942 to 1954. Frank Southard succeeded Sanford Fogg.

Soon after the meeting Sumner Bernstein was delegated to search for an Executive Secretary. There were a number of applicants. At the Executive Committee meeting March 27, 1967 it was suggested that Chauncey Robbins, a member of the Maine Bar and a man of considerable administrative experience and talent might be available. Robbins was then employed in Washington, D.C., and was said to wish to return to Maine. Bernstein was authorized to explore this possibility and report back to the Committee.

An agreement was reached with Robbins and he was hired to become the Association's first full time Executive Director, the title settled upon. By the next Executive Committee meeting on May 15, 1967, Robbins was hard at work planning and arranging for the 1967 Annual Summer Meeting, but his official starting time on the job was July 1. The new office or headquarters of the Association was located at 154 State Street, Augusta, owing to the generous arrangements of Sanford and Dorothy Fogg.

Bernstein said, "It should be apparent to all that we are fortunate to have a man of Chauncey's calibre and background.... He is a dedicated and well-organized lawyer." And then Bernstein spoke about the reorganization which he so diligently and devotedly pursued: "I am happy to report that the Association has responded in loyal fashion to the challenge, and has put itself in good shape for a successful future."

At the next Annual Summer Meeting in 1968 held at the Samoset as usual, a new set of by-laws drafted by Merrill Bradford was adopted to reflect the new organization of the Association. There was a considerable debate on several motions to amend Bradford's by-laws but of a minor nature on the whole. A room full of lawyers could not resist tinkering with something like by-laws.

And so ended the old Maine State Bar Association at the ripe old age of 78 years under the first set of by-laws. The change over

from the old Bar Association to the new was now complete. The publishing of the Annual Reports of the meetings were discontinued with Volume 57 for 1968, and the publication of the Maine Bar Bulletin commenced in their place, the first issue dated September 1967 under the editorship of the Executive Director, Chauncey Robbins. These two publications can symbolize perhaps better than anything else the old and new Maine State Bar Association.

Association Growth:

Continuing Legal Education

Public Image

Community Involvement

DURING THE LATE 1960's and early 1970's, the Maine Bar Association entered a time that can be best described as the era of reorganization and revitalization. Under strong leadership of James S. Erwin, Sumner Bernstein and other dedicated and hardworking Presidents, and with the assistance of Dean Ed Godfrey and David Gregory, efforts were made to integrate the association into a more structured and efficient organization. Some of the major accomplishments during this time included the decision to hire an Executive Director of the Association. Chauncey Robbins, of Houlton, was engaged as the first full time Executive Director, and remained in that position until 1973, when Edward M. Bonney became the Executive Director of the Association. In 1967 the Bar Association moved into its new headquarters at 154 State Street, in Augusta. The first group to meet in the new headquarters was the Committee on Professional Ethics, chaired by G. Curtis Webber. The Bar Association established a Sections and Committees system to more effectively and actively involve the association's members in issues pertinent to the Association and the profession. The Association undertook to locate and acquire the names and addresses of all lawyers in the state. A Continuing Legal Education program was established, and the Maine Bar Association Journal was initiated. In 1968 the Junior Bar Section was reactivated to involve younger members of the association. In November of 1968, Maine, New Hampshire, Vermont and Rhode Island began Tri-State bar gatherings for the interchange of ideas and information, and formed the Northern New England Bar Association (NNEBA).

Another important development during this time was the revision, under the authorship of Merrill "Pappy" Bradford, of the Association's Bylaws as the "next step in the effort to revitalize our Association." The revision, among other important items provided for the election of officers of the Association by mail ballot, rather than by vote at the Annual Meeting. In 1971 the Maine Bar Insurance Committee was responsible for the formation of a Group Insurance Plan under the Maine Bar Insurance Trust - providing the first group insurance benefits available to members and employees. The association struggled with the dilemma of funding of the Lawyer's Fidelity Fund, which, at times became depleted.

Substantively, the Association was faced with many important issues affecting society, the law, the judiciary and the profession. Complaints against and discipline of members of the bar was being handled, if at all, in an unsystematic fashion at the county level, or by Directors of the Association. There was a clear need to organize a fair and consistent procedure to address grievances against attorneys. In 1967 a new proposal on bar discipline was put forth under the direction of John W. Ballou, in which a formal Grievance Committee would be established and would operate under the auspices of the Bar Association. The Association was one of the first to involve lay persons on the Grievance Committee. At the 1970 Annual Meeting the Association adopted the American Bar Association's new Code of Professional Responsibility, which included a statement of mandatory disciplinary rules. (As an aside, an interesting feature at the 1970 summer meeting was a "working demonstration of legal research by computer.") Attorney advertising was a developing issue, as was the impact of minimum fee schedules. The Association also increased its involvement in the legislative process in the State. The Committee on Economics of the Law Practice completed a study and report on legal fees, and an association sponsored Title Guarantee Company was implemented.

There also developed a greater sensitivity to the need for Maine attorneys to assist in providing legal services to the poor, and greater cooperation was achieved between the association and Pine Tree Legal Assistance to increase the volunteer law effort of attorneys. A subcommittee of the Commercial and UCC section was formed for involvement in the revision of Poor Debtor Law. In

1970 the Bar Association authorized the establishment of the Maine Bar Foundation. The association also addressed the implementation of a Public Defender system in Maine for the provision of legal representation to indigents in criminal cases. These years also saw the development of a Lawyer Referral System in 1972 to serve the needs of people of moderate income.

The Association began study of criminal law reform and the development of a new Criminal Code in Maine. With greater awareness of the issue of drug abuse, the Association formed a Committee on Drug Abuse, where doctors and lawyers collaborated to combat drug abuse through educational programs in the State and schools. The Bar Association, together with the assistance of the Department of Education developed and printed "You and the Law" for distribution to schools. The development of environmental issues and the enactment of environmental legislation led to the formation of a section on environmental law in 1971. In the areas of tort law and family law, the association dealt with the growing issue of no fault legislation.

The Board of Governors established a Fee Disputes Committee for the resolution of fee disputes as part of the effort to ease the burden of work of the Grievance Committee. The concept of prepaid legal services was implemented when the Maine Teachers Association formed the first Prepaid Legal Services Association in Maine. On October 15, 1974 the Board of Governors established the Annual Distinguished Service Award to honor individuals who demonstrate qualities in keeping with the aims of the Association. The first recipient of the award was Edith Hary.

Work continued towards greater involvement in legal services for the poor with the participation of the Association through its Legal Aid Committee in a statewide pro bono referral plan with Pine Tree Legal Assistance. The Association looked to new sources of funding, and obtained State and Federal grants for public service projects. A project (BASICS) brought together funding from the ABA, the Federal Government, and the MBA, to support the work of the Committee on Correctional Systems, which led to a report addressing the need to deal with the staggering costs of the correctional system in Maine. In 1977 the Committee released its analysis of the costs and benefits of alternatives to incarceration,

supporting the use of lower cost nonresidential alternatives for the incarceration of adults and the development of foster and group homes for juveniles. In 1975, the Maine Citizens Conference on the Administration of Justice was held. This assemblage of economic, cultural, professional and community leaders met to discuss and address issues relating to the judicial system, including Court Organization, Administration, Judicial Selection and Compensation and Judicial Discipline. Court reform continued with the implementation of the State Administrative Court system.

After several years of careful analysis, Retired Justice Donald W. Webber filed his report on Unification to the Supreme Judicial Court on March 23, 1976, concluding that the public interest will best be served by the complete unification of the Bar of Maine. This, however, did not conclude the debate nor resolve the issue. In 1978, the Supreme Judicial Court, by order, established the Board of Overseers of the Bar. The Board's function was to include operation of a central registration of attorneys, operation of the grievance system and the mandatory arbitration of fee disputes, and to conduct continuous study of the bar and its relation to the public and courts. All members of the bar, as a condition of their right to practice law in the State, were required to pay a reasonable fee.

Lawyer advertising continued as a hot issue as the Code of Professional Responsibility was amended to allow lawyer advertising in printed form in Maine pursuant to Canon 2. In response to mounting litigation, the Association at the 1978 midwinter meeting amended the Code of Professional Responsibility to generally permit advertising in any forms so long as it is not deceptive, misleading or fraudulent. Democracy was at work when the membership voted to repeal a recently adopted plan of lawyer specialization at the annual meeting.

Continuing Legal Education took a giant step forward as the Association hired its first Director of the Continuing Legal Education Program in 1979 and the Association offered videotapes of CLE programs to the public at inexpensive rates. Following years of work on a Uniform Probate Code, the Code was adopted in Maine in 1979. The Bar Association continued its involvement in the education process by appropriating money for the preparation

of a Probate practice manual. The Honorable Margaret Chase Smith received the Distinguished Service Award in 1979.

The Association continued its involvement towards the improvement of justice and judicial administration during the 1980's. With the reduction in federal funding for legal services to the poor, the Association explored new and innovative ways to ensure that low income people have the opportunity to be afforded legal services. A successful effort was made to call upon lawyers to handle pro bono cases left in the wake of staff cutbacks at Pine Tree. Provision of legal services to the poor became a major goal of the association during this decade. The effort was spearheaded by the Legal Aid Committee, under the Chair of John Kelly and Howard Dana, and Pine Tree Legal Assistance.

In 1980 a pilot project for improvement of the Maine Court appointment system was established in Kennebec, Somerset, Penobscot and Piscataquis Counties through funds provided by the Maine Criminal Justice Planning and Assistance Agency. As an outgrowth of recommendations of the Governor's Select Commission on Court Facilities the Association took an active role in support of legislation to fund new court facilities. The Association recognized the need to take a more active role in legislative activities, given the low number of lawyers in the legislature. This effort led to the establishment of a Legislative Action Program to review and report on Legislative matters and the employment of a legislative agent to represent the Association's position on such matters before the the Legislature. The legal profession again reached out to the community through the creation of a Speaker's Bureau, made up of association lawyers who spoke before schools and other community organizations.

The future of the Lawyer's Fidelity Fund was debated by the Association, and at the 1981 annual meeting, the membership voted to terminate the functions of the fund. It was also voted to have the Association go on record as supporting a Lawyer's Fidelity Fund established by a rule of Court and funded by all members of the Bar.

Justice for All: IOLTA

AT THE 1982 ANNUAL MEETING, John Kelly, as Chair of the Legal Aid Committee urged the formation of a Maine Bar Foundation to administer a program that utilizes interest income on nominal client trust accounts for law related charitable purposes, such as legal services, student loans and the administration of justice. The innovative concept of IOLTA thus began to gain support as a means of providing legal services to the poor, in response to the loss of federal revenues. It was voted to approve the submission of an amendment to Rule 3.6 of the Code of Professional Responsibility to the Supreme Judicial Court to authorize the voluntary assignment of interest earned in clients funds in nominal amounts for these purposes. The rule amendment was denied by the Court. However, the Association continued its efforts to establish a Maine Bar Foundation to devote itself to seeking charitable contributions for funding of legal services to the poor and grant money to establish an IOLTA program in Maine.

The Legal Aid Committee and Pine Tree worked together to organize and implement the Volunteer Lawyers Project and the Maine Bar Foundation (to operate and oversee the VLP and to serve as the repository and administrator of funds raised from public and private sources for these purposes). During 1983 five hundred lawyers in Maine agreed to accept three pro bono cases each year through the referral system. Other efforts in this area included the vote of membership to petition the Supreme Judicial Court and/or Board of Overseers to increase the annual attorney registration fee for active lawyers to \$25.00, and to have the increased revenues transferred by the Board of Overseers to the Maine Bar Foundation to facilitate the provision of legal services to the poor. Also through the work of the Legal Aid Committee and Pine Tree, the Association was awarded a \$20,000 grant by the American Bar Association to provide funding for WATS lines to enable the statewide Volunteer Lawyers Project to meet the legal needs of the poor in Maine's rural areas. As the concept of IOLTA

was increasing in support nationally the Association was awarded a \$1000.00 matching grant from the Legal Services Corporation to study further the potential in Maine to implement IOLTA.

Maine's lawyers responded quickly and favorably to the formation of the voluntary IOLTA program; indeed, the response was so positive that the Maine Bar gained nationwide recognition. In early 1988, Association President Francis C. Marsano and Bar Foundation President David J. Fletcher held a joint press conference in Portland to announce that Maine had achieved a first ranking among states with a voluntary IOLTA program. The two presidents proudly reported that 1,129 Maine attorneys had enrolled in the program, representing fifty-six percent of the eligible bar. Although the percentage of participation was certainly exemplary, the resulting revenue figures were even more impressive. David Fletcher explained that the Maine IOLTA program had generated in excess of 300,000 dollars and that only Virginia, with over 20,000 lawyers, had raised more total revenue than Maine in the first year of IOLTA operations.

Since its first year of operation, Maine's IOLTA program has enjoyed continued success. The Waldo County Bar was honored for becoming the first county bar in Maine to achieve 100% participation in the IOLTA program. In November of 1990, the Bar Foundation reported that IOLTA participants included 1,625 attorneys from 449 law firms throughout the State. Maine's participation rate is now exceeding seventy percent. As a result of this remarkable enrollment, the Foundation in 1990 awarded more than one half million dollars to Maine organizations and agencies providing civil legal services to the indigent.

The Bar Foundation has encouraged grant applications from a host of worthy projects and the income generated by IOLTA has thus been used in a variety of ways to improve the provision of legal services to Maine's indigent citizens. The Foundation has made substantial financial grants to Pine Tree Legal Services, Inc., the Volunteer Lawyers Project, Legal Services for Maine's Elderly, Inc., and the University of Maine School of Law's Legal Aid Clinic. Other grants have gone to such diverse groups as the Young Lawyers' Division of the Bar Association, the Portland West Neighborhood Planning Council, and the Alzheimer's Disease and Related Disorders Association.

The Maine Bar: Who We Are

A S THE CENTENARY ANNIVERSARY approached, the Maine State Bar Association and the Board of Overseers of the Bar jointly sponsored a study of the future of Maine legal profession. Chaired by Mark Horton, the Consortium on the Future of the Maine Legal Profession conducted an unprecedented and exhaustive survey of Maine lawyers. The Consortium's survey results offer a valuable picture of "who we are," one hundred years after our formal organization.

Chairman Horton reviewed the survey results at the Association's annual meeting in January of 1989, and he published a summary of the findings in the March, 1989, issue of the Maine Bar Journal. He noted that the survey was mailed to every Maine lawyer and that 1,100 attorneys returned responses resulting in a thirty-five percent response rate.

The City of Portland has historically acted as a "legal magnet," attracting the preponderance of new attorneys as a place to practice law. Not surprisingly, that phenomenon was unmistakably reflected in the survey findings. Fully one third of the survey respondents reported that they practiced in the greater Portland area. Approximately one third of the respondents indicated that their practices were situated in one of Maine's seven next largest metropolitan areas. The survey disclosed that only twenty percent of Maine's lawyers practice in small towns and rural areas. In perhaps a related demographic finding, half of the responding lawyers indicated that they had immigrated to the State of Maine to practice law. As a result, Maine natives now constitute a minority of the Maine Bar. The message is clear: Maine is a great place to live and practice law.

The survey revealed that most Maine lawyers are hard workers, with the majority working at least forty-eight hours per week and producing at least thirty-five billable hours. Sixty percent of the respondents said they had all the work they could handle and a

third said they had too much work. Real estate law was reported as the predominant area of practice and personal injury work was rated second in popularity. The survey also produced detailed findings concerning the gross and net incomes of Maine lawyers. Partners in Portland reported the highest incomes, and Portland associates reported higher incomes than their counterparts elsewhere.

The survey also touched on a variety of gender issues. The survey found that women only comprise twenty-five percent of the Maine Bar. Although most new woman lawyers earn salaries equivalent to male attorneys, a number of gender gap findings were reported. The Consortium's findings in that regard mirrored the findings of an extremely thorough study that had been conducted just four years previously.

During the Summer of 1984, the Bar Association's newly formed "Special Committee on the Status of Women Attorneys in Maine" began an extensive study of Maine's female lawyers. Under the leadership of Chairperson Kathryn Monahan Ainsworth, the Committee mailed questionnaires to each of Maine's women attorneys as well as a random sample of Maine's male attorneys. By including questions concerning topics such as age, marital status, employment setting, and income, the Committee sought to develop a statistical profile of Maine's women lawyers. The survey also contained a number of probing questions designed to ascertain how women lawyers are perceived and treated by clients, other lawyers, and the courts. Other questions addressed issues such as professional satisfaction and parenting.

The Committee reported the results of its survey during the Association's Annual Business Meeting on January 26, 1985, where a variety of fascinating findings were summarized by Chairperson Ainsworth. For example, the Committee learned that, when compared to male attorneys, women attorneys as a group are younger in age, less likely to be married or to have children, and more likely to be employed in government or business.

The more probing survey questions supported the finding that Maine's women lawyers earn less than men, and that they are somewhat less satisfied with the profession of law. A significant number of the State's women attorneys perceived different treatment in their employment setting. These attorneys discerned disparate treatment in such areas as partnership status, promotions,

progress up the pay scale, respect/status, initial hiring, assignment of choice cases, and entry level pay. The Committee noted that small private law firms were the most common settings where women experienced different treatment.

The special committee on the status of Maine's women lawyers deserves recognition for highlighting a variety of areas warranting improvement. In addition to professional status generally, the committee cited the need for law firms to give more consideration to parenting issues, including more flexible work hours, and child care leave.

Any discussion of the present status of women lawyers would be incomplete without noting two recent developments. First, a substantial influx of women students are attending the nation's law schools. That phenomenon was confirmed with particular emphasis at the University of Maine School of Law in 1986 where approximately sixty percent of the incoming class was comprised of women. Maine's own law school is continuing to admit record numbers of female students and the inevitable result will be a state bar association that includes a much larger percentage of women lawyers.

The second development is the fact that increasing numbers of women are accepting leadership positions within the profession. In November, 1982, the Maine Bar Bulletin announced the upcoming Presidency of Phyllis G. Givertz and concluded its announcement by commenting that she was "unlikely to be the last woman to serve as President of the Maine State Bar Association, and, in time, the fact of a woman president will no doubt seem mundane rather than precedential." This comment proved true almost instantly: Mary L. Schendel served as President of the Association in 1985, and Rebecca H. Farnum is serving as President Elect during the Association's centenary year. Not surprisingly, President Schendel has aptly observed that the mid-1980's was "a time when the MSBA made huge strides in leaving behind any image of being a male dominated network."

The Maine State Bar Association: Into the Second Century

THE ASSOCIATION WAS ORGANIZED in 1891 with legal reform as one of its principal purposes. Our first President, Charles F. Libby, lobbied vigorously to make the fledgling Association a public advocate in favor of legal reform. He particularly wanted to improve access to Maine courts and to make the courts more efficient vehicles of dispute resolution. As the Association neared its centenary mark, the membership continued to display such a progressive spirit. Indeed, in recent years the Association for the first time developed and adopted a Mission Statement. The newly adopted Mission Statement contains five purposes:

1. To promote and serve the interests of lawyers in general and members of the Association in particular.
2. To improve the functioning of the profession and to enhance public understanding of and respect for lawyers.
3. To promote the due administration of justice.
4. To bring the special skills of lawyers and the profession to bear on the concerns of society as a whole.
5. To attain the purposes of the Association by all necessary and proper means.

The Mission Statement will no doubt guide the development of the Association as its history enters "the second century."

Perhaps the most significant area to become a recent focus of reform is the provision of legal services to Maine's low income citizens. The Volunteer Lawyers Project has been an unqualified success. Increasing numbers of Maine lawyers are making more of their time available for pro bono work. The Consortium on the Future of the Maine Legal Profession has discovered that the average Maine lawyer dedicates about five hours per week to volunteer legal services. But expanded pro bono service is just the

beginning. The Consortium, together with the Maine Bar Foundation, recently sponsored a thorough study of legal needs in Maine. Chaired by Senator Edmund S. Muskie, the Maine Commission on Legal Needs conducted an extensive survey during August of 1989 for the purpose of learning the legal needs of low income Mainers. Eight public hearings were conducted throughout the State between October 4, 1989, and November 30, 1989. The hearings were well attended because hearing notices were mailed to over 40,000 low income households.

Following its factfinding activities, the Commission prepared a report detailing its findings and proposing a variety of recommendations. In many respects, the Commission discovered the obvious: low income Mainers have a host of unmet legal needs. In particular, the Commission's report stated: "The free civil legal services provided by public funding and the substantial voluntary efforts of the private bar are wholly inadequate to meet the needs of the poor." In response to its findings, the Commission suggested an "action plan for the 1990's" to implement its many recommendations. Senator Muskie has graciously accepted an appointment as chairman of a nineteen-member Implementation Committee which recently went to work "converting the Commission's recommendations into responsive action."

The Implementation Committee will no doubt play a vital role in advancing the reforms necessary to fulfill the legal needs of Maine's indigent citizens. But Dean L. Kinvin Wroth has accurately identified the only real way that these important needs can be satisfied: "If the Commission's recommendations are to have their intended effect, each of us as members of a profession with a long-standing commitment to seeing justice done must become engaged in the process of implementation." As the Association enters its second century, we should respond to Dean Wroth's plea for involvement. Only then will a second century of law and justice become possible.

Note on Sources

This history of the Maine State Bar Association is based upon a record rarely available in the history of state institutions. There are 57 volumes of reports of the proceedings of the annual and biennial meetings of members over a period of 78 years. These reports give a verbatim account of the speeches and discussions of the numerous projects of the Association. They also record the schemes and ideas for reforms, and show the ideals, views of the law, and legal system over those years. These reports are indeed a rich mine of information concerning the legal profession in Maine.

These reports are an edited version of the stenographic transcript taken by a succession of official court reporters. Members of the Bar who attended Association meetings before 1968 will remember Margaret Payne, a loyal friend of lawyers, who took the record for many years.

There are extant other records of the Association under the first set of By-Laws. We still have the original minute book of the 1881 Association, which also contains the minutes of the first meetings of the 1891 Association. There is also in the respective session laws the acts of incorporation which name the incorporators.

The minute book of the Executive Committee from 1952 to 1968 is also in the files of the Association. Where the other minute books are is not known.

The minutes and other records under the second set of By-Laws are located at the Association's headquarters. And, of course, the Maine Bar Bulletin and Maine Bar Journal have been published since 1967 and also contain a wealth of information about the Maine Bar, but of an entirely different format from the reports of the M.S.B.A.

The first number of the Maine Bar Bulletin came out in September 1967 and ran for 19 volumes. It was renamed Maine Bar Journal which came out renumbered as Volume 1, Number 1, January, 1986. These publications also make up a great record of the Maine Bar but from a more formal, less spontaneous perspective than the verbatim contents of the Reports.

The following is a selective list of other sources:

- Brown, Charles Sumner, "The Genesis of the Negro Lawyer in New England", 22 The Negro History Bulletin 147-152 (April, 1959)
- Burrage, Michael, "Revolution and the Collective Action of the French, American, and English Legal Professions," 15 Law & Social Inquiry 225 (Spring, 1988)
- District of Maine Bar Book, typescript prepared by Chief Justice Raymond Fellows. The original is in the State Law Library, Augusta
- Manual on Fees and Charges Including Suggested Minimum Fee Schedule of the Maine State Bar Association (Maine State Bar Association, Augusta, Maine 1970)
- Parsons, Burke A., Summary Report of the Maine Survey of the Economics of Law Practice (Hankamer School of Business, Baylor University, Waco, Texas, 1963)
- Pound, Roscoe, The Lawyer From Antiquity to Modern Times (St. Paul, 1953). This book contains at pp vii-xx an account by Reginald Heber Smith, quoted in the text, of Survey of the Legal Profession, sponsor of Pound's study, and under the auspices of the ABA.
- Reed, Alfred Z., Training for the Public Profession of the Law (N.Y., 1921).
- Silsby II, H.T., "Clara Nash: Legal Pioneer", 7 The Maine History News 9-10 (April, 1972)
- Willis, William, "Samuel Fessenden", A History of the Law, The Courts, and The Lawyers of Maine (Portland, 1863) 541-557.

January 1991

H.T. Silsby II

Appendix

Maine State Bar Association Presidents

- *Charles F. Libby, Portland, 1891 – 1896
- *Herbert M. Heath, Augusta, 1896 – 1897
- *Franklin A. Wilson, Bangor, 1897 – 1898
- *Charles E. Littlefield, Rockland, 1898 – 1899
- *Wallace H. White, Lewiston, 1899 – 1902
- *Joseph W. Symonds, Portland, 1902 – 1903
- *Joseph C. Holman, Farmington, 1903 – 1904
- *George D. Bisbee, Rumford Falls, 1904 – 1905
- *Orville D. Baker, Augusta, 1905 – August 16, 1908
- *Luere B. Deasy, Bar Harbor, 1909 – 1911
- *O. F. Fellows, Bangor, 1911 – 1913
- *George C. Wing, Auburn, 1913 – 1915
- *Fred J. Allen, Sanford, 1915 – 1917
- *John A. Morrill, Auburn, 1917 – 1919
- *Cyrus N. Blanchard, Wilton, 1919 – 1921
- *Charles W. Hayes, Dover-Foxcroft, 1921 – 1923
- *Hannibal E. Hamlin, Ellsworth, 1923 – 1925
- *Charles O. Small, Madison, 1925 – 1927
- *Erastus C. Ryder, Bangor, 1927 – 1929
- *Ralph T. Parker, Rumford, 1929 – 1931
- *Leonard A. Pierce, Portland, 1931 – 1933
- *Edward F. Merrill, Skowhegan, 1933 – 1935
- *Dana S. Williams, Lewiston, 1935 – 1937
- *Carroll N. Perkins, Waterville, 1937 – 1939
- *Harold H. Murchie, Calais, 1939 – 1941
- *Louis C. Stearns, Bangor, 1941 – 1943
- *Charles E. Gurney, Portland, 1943 – 1945
- *James B. Perkins, Boothbay Harbor, 1945 – 1947
- *Currier C. Holman, Farmington, 1947 – 1949
- *Oscar H. Dunbar, Machias, 1949 – 1951
- *Edward W. Atwood, Portland, 1951 – 1952
- *Thomas N. Weeks, Waterville, 1952 – 1953
- *George B. Barnes, Houlton, 1953 – 1954
- *George F. Eaton, Bangor, 1954 – 1955

Presidents Continued

- *Robert B. Dow, Norway, 1955 – 1956
- *George D. Varney, Kittery, 1956 – 1957
- *Herbert E. Locke, Augusta, 1957 – 1958
- *William S. Silsby, Ellsworth, 1958 – 1959
- *Harold M. Hayes, Dover-Foxcroft, 1959 – 1960
- *John P. Carey, Bath, 1960 – 1961
- *William B. Mahoney, Portland, 1961 – 1962
- *Frank F. Harding, Rockland, 1962 – 1963
- *Edward N. Merrill II, Skowhegan, 1963 – 1964
- *George V. Blanchard, Presque Isle, 1964 – 1965
- *Benjamin L. Berman, Lewiston, 1965 – 1966
- William B. Talbot, Machias, 1966 – 1967
- James S. Erwin, York, 1967 – August, 1968
- Sumner T. Bernstein, Portland, August, 1968 – 1970
- Sanford L. Fogg, Augusta, 1970 – 1971
- Joseph F. Holman, Farmington, 1971 – 1972
- Robert A. Marden, Waterville, 1972 – 1973
- Merrill R. Bradford, Bangor, 1973 – 1974
- *Charles W. Smith, Saco, 1974 – 1975
- Herbert T. Silsby II, Ellsworth, 1975 – 1976
- Lewis V. Vafiades, Bangor, 1976 – 1977
- Carl O. Bradford, Freeport, 1977 – 1978
- Stuart E. Hayes, Dover-Foxcroft, 1978 – 1979
- Jere R. Clifford, Lewiston, 1979 – 1980
- Jon R. Doyle, Augusta, 1980 – 1981
- John N. Kelly, Portland, 1981 – 1982
- Ralph I. Lancaster Jr., Portland, 1982 – 1983
- Phyllis G. Givertz, Portland 1983 – 1984
- David J. Fletcher, Calais, 1984 – 1985
- Mary L. Schendel, Portland, 1985 – 1986
- Robert E. Hirshon, Portland, 1986 – 1987
- Barry K. Mills, Ellsworth, 1987 – 1988
- Francis C. Marsano, Belfast, 1988 – 1989
- David R. Weiss, Bath, 1989 – 1990
- Andrew M. Mead, Bangor, 1990 – July, 1990
- Ralph W. Austin, Kennebunk, July, 1990 – 1992

*Deceased

Index

- Adams, John 20, 39
Ainsworth, Kathryn Monahan 66
Allen, Charles P. 1
Allen, Macon B. 14
Anderson, John 15
Archer, Gleason 24
Archibald, James 1
Archibald, James P. 43
Armstrong, Walter P. 24
- Bailey, Boyd 30
Baker, Orville D. 1, 3, 9
Ballou, John W. 45, 58
Barnes, George B. 35, 44, 45
Barrows William G. 14
Bassett, Hermon 54
Bassett, Norman L. 14, 17, 19, 21
Bean, Eva 13
Beane, Fred E. 1
Beliveau, Jr., Albert J. 43
Belleau, F.X. 19
Berman, Benjamin 39, 51, 53
Bernstein, Israel 34, 35
Bernstein, Sumner 40, 50, 51, 52,
53, 54, 57
Bisbee, George D. 1
Blanchard, Cyrus N. 17
Blanchard, George 18, 50, 51
Bonney, Edward M. 57
Borah, Senator 20
Borchard, Edwin 24, 25
Bowen, Catherine Drinker 39
Boyle, James 29
Bradbury, James 1
Bradford, Merrill 53, 54, 58
Braley, Henry King 18, 19
Brewster, Owen 28, 29
Brown, Charles Sumner 72
Brown, Scott 30
Burrage, Michael ii, 72
Bursley, Margaret D.G. 15
Burton, Harold H. 29
Butler, Benjamin 38
- Campbell, Joseph B. 42
Campbell, Joseph G. 29
Carey, John P. 42
Carter, Seth M. 1
Chapman, Arthur 28
Chapman, Richard S. 34, 42
Charbourne, Benjamin F. 1
Clifford, Jere 52
Clifford, John D. 28
Closon, Oliver B. 1
Coffin, Frank M. 30, 34, 43
Coke, Lord Chief Justice 39
Colby, Bainbridge 24
Collins, Samuel W. 35
Cony, Robert A. 27
Cornish, Leslie C. 2, 3, 13, 14, 17,
18, 20, 21, 54
Cowan, George A. 35
Cox, Morris 38
Crosby, Josiah 10
Cross, Harold L. 30
- Dana, Howard 61
Daveis, C.S. 15
Dawson Jr., William L. i
Deasy, Luere B. 22, 23, 34
Deblois, T.A. 15
Desmond, James 30
Dewey, Thomas E. 39
Donahue, Charles 42
Downes, Lemuel G. 1
Drew, Morrill N. 1
Drison, S.J., Robert F. 42
Drummond, J.H. 9
Drummond, Jr., Josiah D. 1
Dubord, Richard J. 43
Dunnock, L. Smith 30
- Easton, Jr., John L. 40
Eisenhower, Dwight D. 38
Elder, Samuel J. 13
Ellsworth, Oliver 20
Emery, George L. 21

Maine State Bar Association

- Emery, L.A. 10, 13
Erwin, James S. 42, 50, 53, 57
- Farnum, Rebecca H. 67
Fellers, James D. 42
Fellows, Raymond 25, 38
Fessenden, Samuel 14
Fessenden, William Pitt 14
Field, Richard H. 28, 35, 36
Fletcher, David J. 64
Fogg, Dorothy 54
Fogg, Sanford 53, 54
Forte, Felix 42
Fuchsberg, Jacob D. 42
Fuller, George R. 1
- Gentleman, Edgar F. 1
Givertz, Phyllis G. 67
Godfrey, Edward S. 41, 52, 53, 57
Goodspeed, Ernest 29, 34
Gregory, David 51, 57
Griswald, Erwin N. 31
Gurney, Charles E. 28
- Haines, Augustine 15
Haines, William T. 1
Hale, Clarence 17, 18
Ham, Charles M. 1
Hamilton, Alexander 20
Hamlin, Hannibal E. 20
Harding, Floyd L. 42
Harding, Frank F. 35
Harrington, Charles A. 1
Hart, Ronald 53
Hary, Edith 59
Haskell, Nathaniel 30
Hatch, Vermont 30
Hayes, Charles W. 18
Heath, Herbert M. 1, 12
Herrick, Addison E. 1
Hersey, Oscar H. 1
Hildreth, Horace 38
Hilton, William H. 1
Hogan, William E. 1
Holman, Joseph 53
Holmes, Oliver Wendell 39
- Horton, Mark 65
Hudson, James H. 24
Hutchins, Brad 30
- Jay, John 20
Jensen, Raymond E. 35
Jewett, Dean F. 40
Johnson, Charles F. 18
Johnson, Ernest 30
Johnson, Treby 1
- Karlen, Delmar 39
Keddy, Royden A. 47
Kelly, John 61, 63
Kenison, Frank R. 42
Kent, Edward 7
Knowlton, Helen A. 14
- LaFollette, Senator 20
Lancaster, Ralph 53
Laughlin, E.J. 14
Leighton, Ralph W. 24, 54
Levin, Moe 42
Lewis, William Draper 24
Libby, Charles F. 1, 2, 3, 9, 10,
11, 12, 38, 69
Libby, Jesse M. 1
Linnell, Frank W. 30, 35, 43, 53
Little, J.S. 15
Littlefield, Charles E. 1, 12
Locke, Herbert E. 28, 34, 35, 54
Lumbert, Ansel L. 1
- MacDonald, Paul A. 39
Madison, James 20
Magruder, Calvert 30
Maguire, John M. 24
Mahoney, William B. 42
Malone, Ross L. 39
Manley, Joseph H. 1
Manson, John W. 25
Marden, Robert 53
Marsano, Francis C. 64
Marshall, John 13, 20
Mattocks, G.P. 3
Mayo, Henry W. 1

- McCarthy, William 53
 McKusick, Vincent L. 35, 43
 McLean, Ernest L. 25
 McLean, Powers 38
 McLellan, Hugh 23
 Medina, Harold R. 31
 Mellen, Grenville 8
 Mellen, Prentiss 8, 14, 15, 18
 Merrill, Edward F. 30, 34, 42
 Merrill II, Edward N. 35, 49, 51
 Mills, Peter 29, 34
 Mitchell, James E. 34, 35
 Moore, Joseph E. 11
 Morrill, John A. 14, 25
 Murchie, Harold 24
 Murray, Edward P. 42
 Muskie, Edmund S. 31, 35, 38, 70

 Nash, Clara 14
 Nichols, David A. 38
 Nixon, Richard M. 30
 Noble, Frank L. 1
 Nutter, George R. 22

 Orr, Benjamin 8

 Parsons, Burke A. 72
 Parsons, Frank N. 13
 Pattangall, William R. 21, 23
 Payne, Margaret 71
 Payson, Franklin C. 1
 Peabody, Arthur A. 43
 Peaks, Joseph B. 1
 Perkins, Carroll N. 21, 34
 Perkins, James Blenn 25
 Peters, John A. 4, 25, 34
 Pierce, Jotham 30
 Pierce, Leonard A. 35
 Pillsbury, Albert E. 13
 Pomroy, Charles 43
 Poulos, Richard E. 42
 Pound, Roscoe i, 72
 Powell, Jr. Lewis F. 39
 Powers, Frederick A. 1, 3
 Preti, Robert F. 47, 53

 Putnam, William L. 1, 13

 Reardon, Paul C. 42
 Reed, Alfred Z. i, 72
 Reed, John H. 42
 Richardson, Harrison L. 42
 Riddell, William Remmick 19
 Robbins, Chauncey 54, 55, 57
 Rubin, Harold J. 35
 Ryder, Erastus C. 1

 Sacks, Albert M. 42
 Savage, Albert R. 1, 3
 Schendel, Mary L. 67
 Scribner, Fred 30
 Sewall, Sumner 25
 Shattuck, Mayo Adams 29
 Silsby II, H.T. i, iii, 72, 81
 Small, Charles O. 25
 Smith, Charles 34, 53
 Smith, Margaret Chase 61
 Smith, Reginald Heber i
 Smith, Sylvester C. 42
 Southard, Frank 54
 Spaulding, John V. 42
 Spear, A.M. 3
 Spear, Albert M. 1, 21
 Spill, Simon 34
 Sprague, Garth 52
 Sprague, John Francis 17
 Stanwood, Daniel C. 13, 18
 Staples, Arthur G. 21
 Stearns, Louis C. 1, 27
 Stearns, Professor 8
 Stone, Alan G. i
 Story, Moorfield 12
 Streeter, Frank E. 13
 Streeter, Frank S. 10
 Strout, A.A. 1
 Sturgis, Guy H. 25
 Sullivan, Francis W. 33, 35
 Symonds, Judge 17

 Taft, Robert A. 30
 Taft, William Howard 13, 17
 Talbot, William 52, 53

Maine State Bar Association

- Thaxter, Sidney 30
Thompson, Joseph R. 15
Thompson, William P. 1
Titcomb, James H. 35
Titcomb, Lendell C. 1
Trafton Jr., Willis A. 31
- Veague, Arnold 41
Verrill, Byron D. 3
Verrill, Robinson 38
- Walton, Charles W. 22
Walton, Sylvester J. 1
Ward, John F. 31
Warren, Charles 20
Webber, Donald W. 42, 60
Webber, G. Curtis 57
Weeks, George W. 39
Wescott, Paul A. 43
Whitcomb, Henry L. 1
White, Wallace 13
Whitehouse, Robert 13
Whitehouse, William Penn 14
Wilkins, Raymond 30
Williams, Leonard F. 31
Williamson Jr., Robert B. 28, 35,
36, 40, 43, 52
Willis, William 72
Wilson, Franklin A. 12
Wilson, James 20
Wilson, Scott 21
Wing, George C. 1
Winters, Glenn R. 42, 50
Wiswell, A.P. 3
Wiswell, Andrew P. 1, 3
Woodcock Jr., Alan 31
Woodward, Charles F. 1, 3
Wroth, L. Kinvin 70
Wyman, Louis 38
- Yeaton, George C. 1