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Dedication to Dean Edward Settle Godfrey, III

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DEDICATION TO DEAN EDWARD SETTLE GODFREY, III

Christine I. Hepler

- I. INTRODUCTION
- II. TRIBUTES TO DEAN EDWARD S. GODFREY, III, DELIVERED AT THE EDWARD S. GODFREY MEMORIAL SERVICE, FIRST PARISH CHURCH, PORTLAND, MAINE, FEBRUARY 5, 2005
 - A. *Remarks by University of Maine School of Law Dean, Colleen Khoury*
 - B. *Remarks by Wendy Godfrey-Dean*
 - C. *Remarks by Honorable Vincent McKusick*
 - D. *Remarks by Honorable Caroline Glassman*
 - E. *Remarks by Honorable Daniel E. Wathen*
 - F. *Remarks by Arlyn Weeks*
 - G. *Remarks by Gerald Petrucci, Esq.*
 - H. *Remarks by Dottie Kelleher*
 - I. *Remarks by Joel Martin, Esq.*
 - J. *Remarks by U.S. Senior Circuit Judge Frank Coffin*
- III. BIBLIOGRAPHY OF THE WRITINGS OF THE HONORABLE EDWARD S. GODFREY, RETIRED JUSTICE MAINE SUPREME JUDICIAL COURT AND DEAN AND PROFESSOR EMERITUS, UNIVERSITY OF MAINE SCHOOL OF LAW
 - A. *Articles*
 - B. *Cases*

DEDICATION TO DEAN EDWARD SETTLE GODFREY, III

*Christine I. Hepler**

I. INTRODUCTION

The *Maine Law Review* is pleased to dedicate this symposium to the Honorable Edward Settle Godfrey,¹ whose life and work we remember fondly and whose presence is greatly missed throughout the Maine legal community. This symposium issue of the *Maine Law Review* includes articles written by judges and former judges, who detail their experiences and observations from the bench. Dedicating this particular symposium to Dean Godfrey is fitting, in light of his vast contributions as Associate Justice of the Maine Supreme Judicial Court, as well as his many other contributions to the legal community.

It is impossible to fully describe the impact that Dean Godfrey had (and continues to have) on the legal community in Maine, on the University of Maine School of Law, and on the *Maine Law Review*. This Article provides a sampling of the lives he touched and the contributions he made to the law through his writings. On February 5, 2005, the Maine legal community celebrated the life and work of the Honorable Edward S. Godfrey, III. In attendance were his family members; past and present faculty, staff, and students of the University of Maine School of Law, the law school he founded in 1962;² his colleagues from the Maine Supreme Judicial Court; his law clerks; and members of the legal community. Representatives from every facet of his life spoke that day. Wendy Godfrey-Dean, his niece, spoke of his loving ways with his family. Former Chief Justice of the Maine Supreme Judicial Court, the Honorable Vincent L. McKusick, spoke of the Dean's forty-three years of service to the Maine legal community and of his tenure on the Law Court. Arlyn Weeks spoke of her work with him as a law clerk and of the lasting friendship that developed as a result. Gerald Petruccelli spoke of the early days of the Law School and the challenges the Dean overcame. Former Chief Justice of the Maine Supreme Judicial Court, the Honorable Daniel E. Wathen, spoke of him as his mentor and teacher while studying at the University of Maine School of Law and working with him on the *Maine Law Review*. There were many moving tributes delivered that day in honor of Dean Godfrey, a veritable giant in the Maine legal community. These tributes are included, in their entirety, as Part II of this Article.

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1. Hereinafter, referred to as Dean Godfrey, not out of disrespect for his position as a Justice of the Maine Supreme Judicial Court, but because that is how he was known at the University of Maine School of Law and how I knew him when I was a student and a staff member.

2. See generally Michael J. Bresnick, *The University of Maine School of Law: An Archival History of its Founding and Accreditation*, 47 ME. L. REV. 323 (1995) (detailing the founding of the Law School and Dean Godfrey's role in the accreditation process).

To further recognize and celebrate the life and works of Dean Godfrey, Part III of this Article contains an annotated bibliography of Dean Godfrey's writings. This bibliography includes both his articles and the legal opinions he authored during his illustrious legal career as a professor at Albany Law School, Dean and Professor Emeritus at the University of Maine School of Law, and as an Associate Justice for the Maine Supreme Judicial Court.

II. TRIBUTES TO DEAN EDWARD S. GODFREY, III, DELIVERED AT THE EDWARD S. GODFREY MEMORIAL SERVICE, FIRST PARISH CHURCH, PORTLAND, MAINE, FEBRUARY 5, 2005

A. Remarks by University of Maine School of Law Dean, Colleen Houry

Welcome. It is my honor and privilege, on behalf of the University of Maine School of Law and the Godfrey family, to welcome you to this celebration of the life of a true giant, a great and good man—one of the best ever—who continues to loom large in the life of our Law School, in the Maine legal community, and in the personal and professional lives of all of us gathered here today: Edward Settle Godfrey III.

Ed, of course, would not have approved of this celebration. In fact, I am sure he would have forbidden it! But, we who loved and respected him cannot keep ourselves from honoring him, and so we disobey.

Ed was an important part of all of our lives, and we miss him deeply. His reach was broad and deep, and he left his indelible imprint on our Law School, on the Court, on our jurisprudence, and our legal community in more ways than we can count. Since the announcement of Ed's death on January 12th, I have received cards, letters, e-mails, and telephone calls from scores of his students, colleagues, and friends. It has been deeply moving to read these tributes to Ed, and to share the profound impact he has had on the lives of so many of us.

There is no way, in this brief service, that we will be able to capture Ed's life in all its aspects. He was an extraordinarily complex man, and in some ways, indescribable. All of us who knew and loved Ed have likely had to struggle, as I have in recent weeks, to convey to those who never met him just what it was about Ed that made him so special. We all mention his awesome intellect, his erudition and breadth of knowledge, his sharp wit, his generosity of spirit, his humanity, his humility, his amazing achievement in building an excellent Law School virtually from scratch. But, the words, however grand, are just words, and, for me at least, they seem inadequate to convey the "magnificence" that was Ed. Because what Ed Godfrey was for us was really "the whole package"—all of those words, all those great qualities, embedded in the man himself. I guess that's why we who loved and admired him always end up describing Ed by telling an "Ed story."

There are easily 300 people in this room who would have volunteered to speak at this Memorial Service—folks like Professor Ted Occhialino, a faculty member at the University of New Mexico Law School, who is here with us today; Chief Justice Leigh Saufley and members of the State and Federal judiciary; Rep. Janet Mills who has brought with her a tribute from the Maine Legislature; President Richard Pattenau of the University of Southern Maine; former faculty members, like Andy Spanogle and Kinvin Wroth, and the scores of his former students, some

of whom have traveled hundreds of miles to honor their teacher and their Dean: "The Dean," always said with a certain tone of voice that left no doubt about which Dean they meant.

Our hope today is to capture, if only in brushstrokes, the varied aspects of this brilliant and totally original man.

Wendy Godfrey-Dean, Ed's niece, will speak for the Godfrey family; Chief Justice McKusick who was Ed's friend and colleague for more than forty years and, for six years, his Chief; Justice Caroline Glassman who with her husband, Harry Glassman, was lured to Maine by Ed in the earliest days of the Law School and remained a close friend through the years; Chief Justice Daniel Wathen who also shared those early years at the Law School as Ed's student and protégé, and then served with him on the Law Court; Arlyn Weeks, who served as Ed's law clerk and was his devoted friend; Jerry Petrucci, also brought to Maine by Ed to serve on the faculty of the new Law School, and who became a close friend of Ed's. Indeed, I would like to take this opportunity to thank Jerry and especially his wife, Charlene, for the consistent and loving assistance they rendered to Ed, especially in this last year of his life; Dottie Kelleher, a longtime friend and one of Ed's bridge and math buddies; Joel Martin who shared with Ed a love of both law and music and who is playing the piano for Ed today; and last but not least, Judge Frank Coffin who knew and admired Ed for most of a lifetime.

It is now it is my pleasure to introduce Ed's niece, Wendy Godfrey-Dean.

B. Remarks by Wendy Godfrey-Dean

On this Friday Night of February 4th, I still struggle with what to say about the man who meant so much to all of us in the family. I know we are here to celebrate the life of a truly remarkable man, Brother-in-law, Uncle, Great Uncle and friend, but I still cannot help feeling such a huge sense of loss. We do grieve and we do miss you Uncle Ed.

Uncle Ed, you brought so much to our lives. On more occasions than any of us can count and in times of extreme adversity, you gave us hope and reasons to carry on.

You were the person we looked to when your BD (brother dearest), our father, our mother's husband and the girls' grandfather left us several years ago. Now you and he are together and hopefully smiling down on us.

Ed, you were incredibly insightful and inspirational to all of us. For me personally, you taught me the meaning of integrity, honesty, and compassion. Our biggest hope, as a family, is that we can live our lives as you did and that we shine in your ever-lasting example.

Uncle Ed, you were the kindest and most non-judgmental person that any one of us has ever known. You were always open to others' viewpoints and made most conversation pleasurable. You always put others concerns and problems ahead of your own—YOU ARE VERY MUCH LOVED!

With all this said we do want you to know that we are indeed all here "together" in celebration and to observe, with ceremony of respect, the life long legacy you have passed on to each and every one of us in the Godfrey family.

We (my mother, sister, brother, nieces and husband) are proud to be here with this sizable (to say the least) extended family and to celebrate Ed's life.

I believe I speak for this entire room when I say—Ed was loved greatly and by so many. He will be missed.

In parting:

To know thyself is to know you are alive
 To give, to love, to seek
 Truth, beauty and
 Suffer pain.

C. Remarks by Honorable Vincent McKusick

The famous architect, Sir Christopher Wren, lies at rest in London's St. Paul's Cathedral, which he designed and built. He lies under a simple marble slab. A nearby wall inscription reads: "If you seek a monument, look around." In the same way, to see monuments to the life of Edward S. Godfrey, we have only to look around. We have only to look around—at the institution that he nurtured to become our highly respected Maine Law School. We have only to look around—at the Governors, the judges, the legislators, and the many other participants in public life who are graduates of his law school. We have only to look around—at the strong legal profession of our State, made stronger by the many graduates from his law school and by the influence for the better Godfrey had on all the rest of us during his forty-three-year companionship with us in the Maine Bar. And, we have only to look around—at leaders of our profession, such as Caroline Glassman, Kinvin Wroth, and many others that he brought to Maine. These are all monuments to the life of Ed Godfrey.

Others will speak of Ed as the Dean and the Professor. I choose to speak of him as the Judge. In September 1976, Governor Longley appointed Professor Godfrey to the Supreme Judicial Court. It was an outstanding choice—and one at that time unusual for two reasons. First, not for a long time had a justice joined the Court other than by elevation from the Superior Court; and, second, Professor Godfrey was the first full-time academic ever to join the Court in all its long history.

At the time Ed was sixty-three, and so under the retirement tradition of the time, he had only one seven-year term ahead of him. That was a transition period for the Court. All five of the other members of the Court Ed joined in 1976 retired fairly early in his term; in 1977, a seventh justice was added to the Court; and in 1981, a sitting justice died in office. In all, when Ed retired in 1983 he had sat with twelve different SJC justices, an extraordinary turnover. Ed's capacity for encouraging collegiality and teamwork helped much in that transition period. He was a pleasure to work with, often self-deprecating, always understated, and sometimes crusty in a humorous way.

He wrote 203 opinions for the Court on the whole range of the Court's work, including some in the Court's most difficult cases. In more than one instance he drafted opinions on both sides of the case to help his colleagues and himself be sure to reach the right decision. He wrote only twelve separate concurrences and dissents—about par for that time. In opinion writing he was a superb craftsman, always keeping an unabridged dictionary close at hand. He gave freely of his time to review and comment on his colleagues' opinions, *but* he never flaunted his academic credentials.

In his service on Maine's highest Court, as in everything he did in law, Ed Godfrey was the perfect professional. And, in the collective work of that seven-judge court—and almost all of its work is collective—Ed was for his colleagues the model “comrade in arms.” Ed's example lives on in the institutional memory of Maine's Supreme Judicial Court.

D. Remarks by Honorable Caroline Glassman

I think most of us here are aware of the many accomplishments of Edward S. Godfrey during his lifetime. We recognize and appreciate that we were fortunate to have had such a rare and unique personality touch our lives, whether as a family member, a teacher, a mentor, a colleague, or as a friend. It is fitting, therefore, that we gather here to celebrate his life by sharing with each other some of the memories we have of him.

However, I suggest to you that perhaps it is also fitting that there be some mention for sharing of how the learning about and the realization of Ed's death affected and will continue to affect many of us. For, in a way, this, too, is part of the celebration of his life, for it reveals the depth of the effect of his life on the lives of those of us that over many years have enjoyed the privilege of knowing that we shared with him an ever true and ever affectionate friendship.

Remembering that years ago I had read a poem written by W.H. Auden expressing his grief on learning of the death of a dearly beloved friend and what that death meant to him, I offer it, with some slight modification, as an expression of our grief at our loss of Ed, our dearly beloved friend.

Stop all the clocks, cut off the telephone,
Prevent the dog from barking with a juicy bone,
Silence the pianos and with muffled drum
Bring out the coffin, let the mourners come.

Let aeroplanes circle moaning overhead
Scribbling on the sky the message He is Dead,
Put crepe bows round the white necks of public doves,
Let the traffic policemen wear black cotton gloves.

He was our North, our South, our East, our West
Our working week, our Sunday rest,
Our noon, our midnight, our talk, our song;
We thought our love would keep him here forever, we were wrong.

The stars are not wanted now: put out every one;
Pack up the moon and dismantle the sun;
Pour away the ocean and sweep up the wood.
For no one now can ever match his good.

I can add nothing, and shall not try.

E. Remarks by Honorable Daniel E. Wathen

If Ed were here today and sitting next to you, at this point he would slide you a note and it would contain one word—grrroan.

A wise person said: "Not how long you live, but how much you have lived, how much meaning your life has absorbed and passed on, is what matters." Measured either in terms of organic duration, the ultimate victory over Pall Mall cigarettes, or in meaning passed on, Ed Godfrey's life was a success. For years we have all written and spoken about the contributions he made during his long and productive life. No man ever had more retirement parties, but only after his death did I discover the secret to his success. When I was interviewed by Patty McCarthy for a piece that will appear in the *Alumni Magazine*, I gave her the usual story about the builder and founder of a law school. I told her how Ed gathered an outstanding faculty, assembled a full library, and established a quality student-edited Law Review. I told her how he approached me at the end of my first semester and asked if I would work on the Law Review in return for a scholarship. I said sure. I wrote a note in my first year and then served as Editor-in-Chief for the next two years, and wrote an article in each of those years. As I described it to Patty, with suitable modesty, it sounded like I was an important part of Ed's carefully considered plan to build a great law school.

As I thought about it after the interview, it struck me for the first time what an inaccurate story I had concocted. If that had been Ed's plan, it was most unlikely and unpromising. You would have to assume that Ed's line of reasoning at the time went something like this: "I am going to produce an academically respectable Law Review by putting a fellow in charge of it who flunked English Composition."

A couple of years ago, Ed entertained the Law Court by describing the admission process that led to my acceptance into law school. I am unable to do justice to his delivery, but these were his exact words: "His application in the spring of 1962 for admission to the class of 1965 presented a close case even for those days when we were unusually hungry for students. His transcript from Ricker College showed little in the way of scholastic talent or industry until the beginning of his junior year. Apparently some sort of epiphany occurred in the summer of 1960, for in his last two years at Ricker he received honor grades in all courses. We went with the epiphany."

No, Ed didn't decide that I was the key to building a respectable Law Review and a great law school; he decided that I needed the Law Review as a remedial experience to make up for my misspent youth. That decision was costly for him because he had to work with me, side by side, days, nights, and weekends for the next two and one half years to produce that respectable Law Review. It was the best time of my life. He became my personal tutor and confidant. Every word and every citation was checked by both of us several times. Most of what I learned in law school came from my Law Review experience with Ed. Only now that he is gone does his secret become clear—with Ed, people came first, in all things. He didn't set out just to build a law school; he meant to build people and professional careers. The law school was simply a means to that end. Like all great teachers and leaders, Dean Godfrey, as I called him in those days, took me, and many others in this church, to places we didn't think we could go.

So, the monument for his life's work is not the building on Deering Avenue, but rather the people who assemble here today, and the many others scattered around the world who received the meaning in Ed's life that he passed on to each of us.

Henry Adams said: "A teacher affects eternity. One can never tell where his influence ends." Ed was our teacher for life and at his best outside the classroom. I have to confess that everything he said about my admission to law school was correct with one exception—Ed, you were my epiphany! I owe you a great deal. Thanks.

F. Remarks by Arlyn Weeks

Let me begin by stating my bias: I loved Ed Godfrey. He did not always make it easy to do so, but, like many of you, I really had no other choice.

I was Ed's swing clerk for a year beginning in August 1981, Ed's next-to-last full year on the Supreme Judicial Court. Ed did not choose me to be his clerk; I chose him. Changes in the membership of the court occurred between the time I was hired and the time I was due to begin to work. As a result, I was given the rare opportunity to choose my assignment. Ed was already a member of the court when I began my studies at the University of Maine School of Law, so I knew him only by reputation at the time. That reputation made it very easy for me to choose to swing between Ed and Justice David Nichols. I still find it hard to believe my good fortune.

Ed's chambers were the rooms directly behind the bench where the Law Court sits to hear oral arguments. Ed's own office was often smoke-filled, but that is the only drawback that I can recall about that year. At some point during that year—and Phil Coffin, Ed's elbow clerk that year, or Pat Noonan, his judicial secretary, may remember the exact circumstances better than I do—a brown toy dinosaur, about two and a half feet long, appeared in chambers. Ed pronounced it the perfect mascot for an appellate court. He and I gave that dinosaur back and forth to each other a few times over the next several years; he gave me a photograph of it adorning the mantelpiece in the house where he stayed in Albuquerque. At some point, I found and bought an identical one, so that we both had one. Mine has a prominent place in my home, where I see it every day, even though I now work for a trial court.

In 1981, cases scheduled for oral argument before the Law Court were assigned in advance at random to the judges. The assigned judge's law clerks would read the briefs, research the issues—before the days of Westlaw and Lexis—and write bench memos analyzing the issues and often recommending an outcome for each case. The bench memos were then distributed to the judges who would be sitting to hear oral argument. After oral argument, if the assigned judge found himself in the majority—"himself" is the correct pronoun because Caroline Glassman had not yet joined the court—the law clerk who had written the bench memo would work on the draft opinion. The draft opinion would then be circulated among the judges who had heard the oral argument. It was thus usually fairly easy to discern which law clerk had worked on a given draft opinion.

Ed did not involve himself in the preparation of the bench memos, although he was always ready and willing to discuss an issue with which we might be hav-

ing some difficulty. By contrast, he was very involved in creating the draft opinions. After the court had held a conference on the case, he would discuss with the law clerk the outcome and the reasons for it. The law clerk would then prepare a first draft of the opinion, which Ed would rework himself or return to the clerk for further work. He often discussed the legal issues with the law clerk extensively. He was meticulous and very aware of the import of the words that were used in his opinions.

One of my favorite memories of that year involves Chief Justice McKusick, who unexpectedly summoned me upstairs to his chambers one day. He had been reviewing one of Ed's draft opinions, which he knew I had worked on. There was an area rug in front of the chief's desk. I stood on that rug while the Chief questioned me closely about the legal reasoning supporting the position taken in the draft opinion. I had never before been literally called on the carpet. I did not acquit myself at all well; before long I was quite miserable and appalled by my poor performance. Finally, the Chief said that he was afraid that Justice Godfrey was allowing himself to be unduly influenced by his law clerks. Chief, would that it had been true—I could have taken that remark as the greatest compliment I am ever likely to receive as a lawyer. However, that could never have happened. Ed would literally worry himself sick over opinions at times. He counted the days to the end of his term on the court because his devotion to getting it right exhausted him.

Jonathan Levy was Ed's elbow clerk the year after I served. He wrote a letter about Ed to Dean Khoury, which unfortunately arrived too late to be included in your printed material. I hope that you will be able to read the full letter on the Law School's web site. With his permission, I will repeat here a portion of that letter, the five lessons that Jonathan learned from clerking for Ed:

1. Clear thinking demands clear writing.
2. Clear writing takes hard work.
3. Treat others with respect.
4. Intellectual honesty is essential.
5. Honor is in the doing, not in the praise that follows.

After Ed returned to teaching, he also served with the state Labor Relations Board. When I asked him why he had taken on that particular task, he said, "You have to show them that this still works." [pointing to his head] I often had lunch with Ed in restaurants in the Old Port, although in recent years I suggested it less frequently because his driving was truly atrocious. He was no longer walking to downtown Portland from his house, as he did after the great April snowstorm that shut down the city in 1982. The last time I had lunch with him, shortly before his last hospitalization, Ed expressed eloquently his disappointment at the outcome of the presidential election and his dismay at several of the policies of the current national administration. This [gesture] was still working fine.

Ed Godfrey made it possible for many of the people in this sanctuary to be lawyers. He made it possible for each of his law clerks to be better lawyers than we otherwise would have been. And he made me a better person. Thank you, Ed.

G. Remarks by Gerald Petruccelli, Esq.

I want to go back. It is 1968 or 1970.

The sun is shining; the leaves are turning. Joan Baez is singing "Forever Young."

The Law School is young and making itself fit into 68 High Street.

Classrooms and offices and bookshelves are in any space that is nearly—but never exactly—the right size.

Don Garbrecht and Pierce Hasler are planning some hunting.

Harry Glassman's laugh is rolling down the stairs.

Merle Loper is asking bewildered students: What is Property? Can you throw dirt through time?

The Law School's sense of community is building despite, or maybe because of, the turmoil of the Vietnam Era.

At the heart of it all is our Dean—forever "The Dean."

He's in his office, wearing that green eyeshade, but not mentioning his headache.

He's picking up gum wrappers and cigarette butts.

He's making magic with a modest budget that challenges even his command of higher mathematics.

That magic was the beginning of the Urban Legend of the "Dean's Discretionary Fund."

And most of all he led by quiet, steady, elegant example.

When I started teaching, the Dean taught me. The Socratic Method may not work as well if the teacher is not Socrates and the students are not Plato. But I would not trade my Dean for Socrates and it was not necessary to be Plato to learn from him.

The Dean was a master of teaching by listening. He would drop by often to chat about whatever we were working on. He was interested in everything. He would ask just the right question to unlock any problem.

He asked nobody to change; he inspired everyone to improve.

After every semester, he would post three sheets on the bulletin board outside his office: One Dean's list for each Class. And he signed every Dean's List "Good work. ESG" He was as proud of the students on those lists as he would have been of his own children.

But that was then and this is now. Reality intrudes.

It will be difficult for us not to be with him, but it is better not to be forever young.

If we were forever young, we would have missed decades of knowing him, learning from him and loving him. Who would give that back just to be forever young?

Think about all he did after he founded our School. Think about all he did after he served on our Court. He gave us so much for so long; it would not be fair to ask him for more. Now, it is up to us to carry forward what he has given us.

If we do not fail him, his decency, his generosity, his wisdom, and his moral courage will live on—at least a little—in our better selves.

Perhaps today, we can use his own words to express our gratitude, our affection and our respect:

"Good work, ESG; Good Work."

H. Remarks by Dottie Kelleher

For three weeks I have replayed so many wonderful times with my special friend, and have wondered why the words were escaping me to explain what Ed Godfrey meant to me. Finally, I decided that I would simply try as best I could.

I met Ed Godfrey in 1966 when my husband, David Whittier, was a first-year law student and was a senior in college. Dean Godfrey seemed bigger than life to me. Despite being very involved with law school and helping with school functions as president of the Law Wives Club, I was petrified of Ed. He was the most brilliant and serious person I had met.

In 1969, I moved away and did not come back to Portland until 1977. During those years, I saw Ed on occasion. But in 1977, my life changed dramatically when Ed married my second husband, Dennis Kelleher, and me. From November 1977 until now, Ed Godfrey was such an important part of my life.

Reconnection with Ed changed my life in such a nice way. We started to play bridge together. He became one of my favorite partners. I always knew how much we both enjoyed our games together. While playing bridge, we started to share our other common interests of which we had many. We loved to do math, crosswords, and bridge puzzles while eating hot fudge sundaes. We also discussed law, politics, and education. In all our years, we never disagreed, except at bridge. We did bicker on occasion over a bridge hand, but boy did we agree on the big things.

One time, returning from a bridge tournament in Canada, we had a problem. About four hours from Portland, Ed started getting leg cramps. We kept stopping to let him walk them off. Being the wonderful gentleman that he was, he felt he should drive. Finally, I suggested I drive. Of course, I had to confess that I had not driven a standard shift for at least ten years. Reluctantly, he agreed to my taking over. After two or three times of stalling his car, we were off to the races. After a few more minutes of smooth driving, he smiled at me and said, "You are a really good driver."

I recently told Uncle Ed that he had been my best New Year's date ever. He quietly said, "Really?" About ten years ago, my plans had fallen through for a New Year's Eve bridge and dinner party. Hearing about my dilemma, he volunteered to drive back from Albany to escort me. At 4 p.m., he called, saying he was back and would be delighted to go with me. Not only did he go with me, he agreed to visit my son, Brett, and his wife, Michelle, first, and he let me drive. It was such a lovely evening.

Uncle Ed touched my life in so many ways, but especially my math teaching. About fifteen years ago, he gave me a math calendar. I loved it and did not want to throw it away. I decided to reuse it by giving my students the POD—problem of the day. The next thing I knew, other Deering math teachers were doing the same. Each teacher was not getting a math calendar each year. All my students and the math teachers knew I had this wonderful friend who loved math. Each year they would send him problems, including ones from the national math exam. He would work every problem sent to him. Last summer I went to his house to do math and show him the graphing calculator. He even told me the week before he died that he was doing math problems in his head.

Over the years, Ed became part of my family. He accepted his adoption without complaint, even though I never asked his permission to call him Uncle Ed. I

knew it was okay with him when he sent a Valentine card from the University of Albany, signed Uncle Ed. My son, Brett, never came home from college without calling ahead to make sure I had planned a dinner with Uncle Ed. These times meant so much to all of us.

As Uncle Ed was becoming forgetful at times, he and I tried to keep a sense of humor. Most nights we played bridge, I would cook for us. One Friday night we arrived at bridge only to have him pull my cloth napkin instead of his handkerchief out of his pocket. I quickly said, "Uncle Ed, what do you think you're doing stealing my napkin?" After a big laugh, he insisted we would have to do a napkin check each week, and we did.

When I asked the bridge players about Ed, as a person, I heard that Ed was so good to them and always showed interest in them.

I could go on forever telling stories about my special friend, adopted uncle, and trusted confidant. I have been blessed to have him in my life. He made me feel respected and loved. I used to tell my high school students that if I believed in reincarnation, that I would come back to play basketball for the Boston Celtics. I have changed my mind. Instead of getting my wish to play basketball, I want to have Uncle Ed be able to come have one more bridge game, and have hot fudge, ice cream sundaes.

I love you, Uncle Ed, and will miss you forever.

I. Remarks by Joel Martin, Esq.

A young man, now in his thirties, first met Ed Godfrey twenty or twenty-five years ago. Over time, Ed became a favorite uncle to that family, as he was to others, and the young man describes growing up with Ed this way:

In those days, I did not know anyone else who arrived one minute early to dinner; who backed his car up our long driveway, as if he might need a speedy getaway; who rose and all but bowed when a woman entered the room; who smoked through rain or sleet or snow; who drove from end to end of the country, alone; who never married; whose memory stretched so wide and deep.

I did not know you could live a life and believe in books like that, that you could continue to find such pleasure in the right words, or such horror in the wrong ones, that ideas would always be important, always worth staying up for, always worth tracking down in obscure volumes, always worth talking about.

Books, facts, words, ideas—Ed feasted on them. In the last weeks of his life, he talked with a visitor about the engineering and construction of the aqueducts that brought water from Rome to Pompeii at the time of Vesuvius' eruption. He explored the meaning of the decision by the Supreme Court of Ukraine voiding that country's presidential election. He speculated on the origin of the term "behest and behoof." He recited Horace's Ninth Ode, in Latin—very thoughtfully translating it to English for the visitor—and he said that the ode made him see again the Helderberg mountains, south of Albany, which were visible in the distance from his window when he was a boy.

As a boy, too, a student at Albany Academy, he acted in plays of Shakespeare and through his life he loved to see them, hear them, read them, quote them, talk about their meaning. His very favorite lines from the plays were these:

[N]ever anything can be amiss

When simpleness and duty tender it.

We hear Ed in those words as we hear him elsewhere: simpleness and duty, words, ideas, memories, a vision of mountains.

It seems fitting to take leave of him today in words from *The Tempest* which he particularly loved:

Our revels now are ended. These our players,
As I foretold you, were all spirits, and
Are melted into air, into thin air,
And, like the baseless fabric of this vision—
The cloud-capped towers, the gorgeous palaces,
The solemn temples, yea, the great globe itself,
And all who it inherit—shall dissolve,
And like this insubstantial pageant faded,
Leave not a rack behind. We are such stuff
As dreams are made on, and our little life
Is rounded with a sleep.

Ed, sleep well.

*J. Remarks by U.S. Senior Circuit Judge Frank Coffin
Edward Godfrey: The Passing of a Venerable*

When a truly venerable one of our own passes from our company, we need a gathering, not just to grieve our loss but to realize our legacy and what it means. In Ed Godfrey's case, there are many clauses in his Testament—as you have so movingly been told.

His qualities of mind and spirit are like a palimpsest, a document or parchment which reveals, as one peels off the layers, yet even deeper levels. Ed would have said, "Hmph. Why not just say 'onion'?" The top layer, most easily peelable, is that of a gruff, offputting countenance . . . until his weathered face cracks into a wide grim or an unrestrained laugh. Here, we quickly sense, is an amused, bemused observer of the Human Comedy, self included. Beneath this, we find a person who stoutly defends cherished standards, institutions, and processes of law with relentless honesty and discipline. And then, below that, we discover a durable and caring concern for others, those others being generations of students, faculty, and other friends.

With this set of qualities, fate gave him the opportunity to create an institution, a law school, which allowed him to play all the roles in the drama. And so he began as the dogged and creative Founder and Dean, the standard setter of scholarship, an inspiring teacher, and the ad hoc philanthropist for needy students. Then he demonstrated that an academic could be a collegial, non-ideological and stimulating Justice on Maine's highest court. Finally, he returned to the school he loved—to nurse along and watch it mature under gifted successors.

There is one other role he filled to perfection, that of lifelong learner and student. Many years ago, a good friend and excellent member of our Law Court, Sidney Wernick, and I had the unique privilege of going to Ed Godfrey's house for our own evening classes in the fabled Hart and Sacks Legal Process course. These proved to be wonderful, no-holds-barred sessions of exchanging experiences and reciprocal learning.

His eagerness to learn did not stop with the law. It seemed to me, however, that he was pushing learning a bit far when he gave me New York Times writer James Gleick's book, *Chaos—Making a New Science*. One physicist described this new science as "the irregular, unpredictable behavior of deterministic, nonlinear dynamical systems." I was flattered but overwhelmed, for I was a stranger even to old science. But for Ed, this was grist for his mill and something I ought to know about.

At the very end of his life, he was studying a book on new math. Judge Cohen tells of commenting to Ed, admiring his "relearning" effort. Whereupon the crusty Godfrey, whose memory was legendary, crisply replied, "No. Not relearning. This was new stuff."

Years ago, when my portrait was presented to the court here in Portland, Ed did me the honor of participating. He began with some very insightful words. He said, "My remarks will all just boil down to one worried, eclectic pluralist praising another." For me, this was an insightful and clarifying remark. I felt proud to be included. For Ed was a pluralist in not accepting any one source or theory as a solvent for all problems; he was eclectic in choosing among various sources and systems for the one that seemed the best fit. And he remained worried, but never daunted. Having no fixed, final answers kept him going as a lifelong searcher and learner, always open to new ideas.

There is no law school that has a founder of broader vision, nobler commitment, and deeper compassion than our own University of Maine School of Law. In Truth, a rich and fruitful inheritance.

III. BIBLIOGRAPHY OF THE WRITINGS OF THE HONORABLE EDWARD S. GODFREY, RETIRED JUSTICE MAINE SUPREME JUDICIAL COURT AND DEAN AND PROFESSOR EMERITUS, UNIVERSITY OF MAINE SCHOOL OF LAW

A. Articles

Advanced Study For Law Teachers, HARVARD LAW SCHOOL BULLETIN, June 1958, at 6.

In this article, Dean Godfrey writes about his experience as a Ford Foundation Fellow at Harvard Law School and encourages others to teach and participate in fellowships.

Enforcement of Delinquent Property Taxes in New York, Part I, 24 ALB. L. REV. 271 (1960).

This is the first installment of a four-part series that examines the municipal problems related to the collection of delinquent taxes. In particular, this article provides background on the evolution of administrative tax sales in the state of New York.

Enforcement of Delinquent Property Taxes in New York, Part II, 25 ALB. L. REV. 212 (1961).

This is the second installment of a four-part series that examines the municipal problems related to the collection of delinquent taxes, focusing on evidentiary problems in this area of the law.

Enforcement of Delinquent Property Taxes in New York, Part III, 25 ALB. L. REV. 39 (1961).

This is the third installment of a four-part series that examines the municipal problems related to the collection of delinquent taxes and focuses on the property owner's right to notice and hearing.

Enforcement of Delinquent Property Taxes in New York, Part IV, 26 ALB. L. REV. 201 (1962).

This is the final installment of a four-part series that examines the municipal problems related to the collection of delinquent taxes. In this article, Dean Godfrey analyzes the legislation passed to address the issues arising in this area of the law.

Harry P. Glassman, The Supreme Judicial Court Justice, 34 ME. L. REV. 253 (1982).

This article is a tribute to the Justice Harry P. Glassman of the Maine Supreme Judicial Court on the occasion of his passing. Dean Godfrey writes of Justice Glassman's unique understanding of the Law Court's proper role in the judicial system and of his relentless search for the right solution to the cases before the Court.

In Memoriam: Donald LeRoy Garbrecht, 31 ME. L. REV. ix (1979-1980).

In this tribute to Donald L. Garbrecht, Law Librarian and Professor of Law at the University of Maine School of Law, Dean Godfrey writes of Professor Garbrecht's unique abilities to negotiate with book dealers, publishing houses, and other law libraries, his exceptional organizational skills, and his ability to hire the best people for his staff, all of which made him a successful law librarian and a valued member of the faculty at the University of Maine School of Law.

Justice Sidney W. Wernick: In Memoriam, 48 ME. L. REV. 1 (1996).

This is a tribute to Justice Sidney W. Wernick of the Maine Supreme Judicial Court, on the occasion of his passing. Dean Godfrey writes of Justice Wernick's career on the Law Court, of his active retired status from that court, his adept ability to preside over complex trials, and his work as an adjunct professor at the University of Maine School of Law.

Legal Education and the University, 18 ALB. L. R. 137 (1954).

This is the first article in a series of articles discussing legal education. Dean Godfrey traces the evolution of legal education from its earliest form of apprenticeship through the development of law schools. He also analyzes how university traditions have affected the way the law is taught.³

3. Dean Godfrey planned to write four articles on this topic: (1) *Some Ideas About the Nature of A University: Technical Traditions*; (2) *The Traditions of University Autonomy*; (3) *The University Traditions of Scholarship and Service*; and (4) *Some Conclusions*. 18 ALB. L. REV. 137, fn.1 (1954). After much searching and several conversations with Mary Wood, the librarian at Albany Law School, I was only able to find the first two installments of this series. It appears that the second installment, *The Traditions of University Autonomy*, was divided into two parts as well, one that discusses university autonomy and one that discusses academic freedom of individuals associated with the university. It seems that the final two installments of this series were never published by Dean Godfrey.

Legal Education and the University, 19 ALB. L. R. 206 (1955).

This is the first installment of Part II of Dean Godfrey's writings on this topic. This article discusses the traditions of institutional autonomy of the university as it moved from being under the control of the church to becoming an independent body in the hands of trustees.

Legal Education and the University, 20 ALB. L. R. 170 (1956).

This is the second installment of Part II of Dean Godfrey's writings on this topic. This article discusses the academic freedom of individual scholars of the university.

The Maine Law Review, 15 ME. L. REV. 1 (1963).

This article briefly describes the desire of the students at the newly reestablished University of Maine School of Law to publish a law review, despite words of caution to the contrary.

Preview of the Uniform Commercial Code, 16 ALB. L. REV. 22 (1952).

This article is the text of a speech given by Dean Godfrey to the Bar of the Third Judicial District of New York on the proposed Uniform Commercial Code. Dean Godfrey discusses the formation of the UCC, its history, its approach, its scope, the general plan of the law, and the major changes that it would effect, if adopted.

Some Limited Interest Problems, 15 LAW & CONTEMP. PROBS. 415 (1950).

In this article, Dean Godfrey examines the case law of limited interest cases in an effort to show how the courts have resolved the conflict between, on the one hand, the insurer's desire for a narrow definition of "indemnity" and the theory that insurance is a personal contract, and on the other hand, the policyholder's and other claimants' desire for an expanded definition of indemnity and their argument that the doctrine of non-assignability should be held to its original procedural confines. In the end, Dean Godfrey concludes (1) arguments by analogy should be avoided in these types of cases; (2) the facts of each case must be examined with great care so as to avoid unwarranted generalizations; (3) the courts have avoided excess recovery in limited interest cases; (4) in the absence of any express or implied agreement, trust or agency, the insured holds the proceeds of the insurance free of the rights of the other owners, except in specific instances; (5) the strict indemnity principle is faithfully adhered to by the courts, with one exception; and (6) there is a strong temptation to apply the technical rules of property and the general principles of insurance in these cases in the hopes of coming to socially desirable results.

Some Notions for A Regime Of Woodshed Legal Research, 13 J. OF LEGAL ED. 1 (1960-61).

In this article, Dean Godfrey expands the theories proposed by Roscoe Pound, Edwin Patterson, Felix Frankfurter and Karl Llewellyn, suggesting that there are similarities and differences in the process of scientific investigation employed by scientists and the process employed by legal scholars performing legal research. Furthermore, Dean Godfrey explores the question of how far some of the research

methods used in mathematics and the physical sciences have been adapted or can be adapted to research the law. Dean Godfrey concludes that if all of the intellectual processes of scientific research are taken into account, they contain lessons that may be helpful for the legal scholar, despite the difference in the purposes of the two systems.

Structure of the Maine Court System, 1956-1991, 43 ME. L. REV. 353 (1991).

In this article, Dean Godfrey describes the changes in the Maine Court System, starting in 1956, when it was an uncoordinated system, lacking in proper procedures, with poor personnel management, and weak supervisory mechanisms, to a system, that is one administered system, managed by the Administrative Office of the Courts.

A Tribute to Merle Loper, 49 ME. L. REV. 277 (1997).

This is a tribute to Merle Loper, a professor at the University of Maine School of Law, on the occasion of his passing. In this tribute, Dean Godfrey writes of Professor Loper's work as a consultant to the commission on the revision of Maine probate law, culminating in his 662-page report that supported the enactment of the Maine Probate Code in 1979, and Professor Loper's willingness to answer any and all questions Dean Godfrey had for him when he returned to teach Trusts and Estates at the Law School. He also writes of Professor Loper's love of literature and poetry and of his courage when faced with personal adversity.

Why Bar Exams, SUI JURIS, Nov. 1965, at 4-5, 18-20.

In this article, Dean Godfrey discusses the pros and cons of requiring matriculated law students to take the bar exam. In particular, he comments upon the arguments in support of diploma privileges, that law students who have graduated from schools approved by the American Bar Association or that are members of the American Association of Law Schools should not be required to take the bar exam.

B. Cases

Judge Godfrey was the first career academic appointed to the Maine Supreme Judicial Court, where he served one seven-year term from 1976 to 1983. During that time, the Court experienced incredibly high turnover in its membership.⁴ Judge Godfrey's desire for collegiality, group decision-making, and a balanced approach to precedent and law reform was what the Law Court needed at this time in its history.⁵

While on the Law Court, Judge Godfrey authored over two hundred opinions, spread over one hundred volumes of the Atlantic Second Reporter (Volumes 365-464). He published eight dissents, seven concurrences, and one part-concurrence/part-dissent.

4. See Vincent L. McKusick, *Tribute to Dean Edward Settle Godfrey III*, 47 ME. L. REV. 265. All but one of Judge Godfrey's original colleagues retired before he was halfway through his seven-year term, and the fifth retired in 1981. This made Judge Godfrey the Senior Associate Justice after only five years on the Law Court.

5. *Id.* at 266.

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Cent. Me. Power Co. v. Pub. Utils. Comm'n., 395 A.2d 414 (Me. 1978).

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Continental Tel. Co. v. Pub. Utils. Comm'n., 397 A.2d 1001 (Me. 1979).

Cumberland Farms N., Inc. v. Me. Milk Comm'n, 377 A.2d 84 (Me. 1977).⁶

Cunningham v. Kittery Planning Bd., 400 A.2d 1070 (Me. 1979).

Cumberland Farms N., Inc. v. Me. Milk Comm'n, 428 A.2d 869 (Me. 1981).

Matter of Pittston Co. Oil Refinery & Marine Terminal, 375 A.2d 530 (Me. 1977) (Godfrey, J., concurring).

Mars Hill & Blaine Water Co. v. Pub. Utils. Comm'n., 397 A.2d 570 (Me. 1979).

New England Tel. & Tel. Co. v. Pub. Utils. Comm'n., 448 A.2d 272 (Me. 1982).⁷

State v. Dube, 409 A.2d 1102 (Me. 1979)

Civil Procedure⁸

Akins v. Firstbank, N.A., 415 A.2d 567 (Me. 1980).

Allis-Chalmers Corp. v. Hadley, 413 A.2d 934 (Me. 1980).

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Connell v. Aetna Life & Cas. Co, 436 A.2d 408 (Me. 1981).

Cunningham v. Kittery Planning Bd., 400 A.2d 1070 (Me. 1979).

Dobson v. Quinn Freight Lines, Inc., 415 A.2d 814 (Me. 1980).

6. For a more detailed discussion of this case, see Professor David P. Cluchey's article *Of Judicial Review, High Standards, and Edward S. Godfrey*, 47 ME. L. REV. 269 (1995).

7. For a more detailed discussion of this case, see Professor Orlando E. Delogu's article, *Justice Edward Godfrey and the "Public Purpose" Decision*, 47 ME. L. REV. 275 (1995).

8. For a more detailed discussion of Judge Godfrey's Civil Procedure jurisprudence, see L. Kinvin Wroth's article *Justice Godfrey and the Rules: Procedure as Substance*, 47 ME. L. REV. 305 (1995).

Hackett v. Eaton, 389 A.2d 848 (Me. 1978).

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Vanasse v. Labrecque, 381 A.2d 269 (Me. 1977).

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Commercial Law

Hawkes Television, Inc. v. Me. Bureau of Consumer Credit Prot., 462 A.2d 1167 (Me. 1983).

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Boston Milk Producers, Inc. v. Halperin, 446 A.2d 33 (Me. 1982).

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E. Fine Paper, Inc. v. Garriga Trading Co., 457 A.2d 1111 (Me. 1983).

9. For a more detailed discussion of this case, see Professor Orlando E. Delogu's article, *Justice Edward Godfrey and the "Public Purpose" Decision*, 47 ME. L. REV. 275 (1995).

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Criminal Law & Procedure¹⁰

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State v. Clough, 391 A.2d 361 (Me. 1978).

10. For a more detailed discussion of Dean Godfrey's criminal law and criminal procedure jurisprudence, see Professor David D. Gregory's article, *Justice Godfrey on Constitutional Criminal Procedure*, 47 ME. L. REV. 281 (1995). See also Melvyn Zarr, *Justice Edward Godfrey and the Role of the Trial Judge in the Criminal Process*, 47 ME. L. REV. 315 (1995).

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11. For a more detailed discussion of Judge Godfrey's property decisions, see Professor Merle Loper's article *Ed Godfrey: The justice, the person, and some cases on property*, 47 ME. L. REV. 295 (1995).

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