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## Vincent L. McKusick: Chief Justice of the Maine Supreme Judicial Court

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## VINCENT L. MCKUSICK:

· CHIEF JUSTICE OF THE MAINE SUPREME JUDICIAL COURT  
*Fred C. Scribner, Jr.\**

On August 9, 1977, Governor James B. Longley appointed Vincent L. McKusick, an attorney practicing in Portland, to be Chief Justice of the Supreme Judicial Court of Maine. McKusick was sworn in as Chief Justice on September 16, 1977.

For many years prior to 1977, it had been the practice of Maine governors to select a sitting justice of the Maine Supreme Judicial Court to serve as chief justice. Governor Longley, however, had indicated that in making his judicial appointments he would consider not only sitting judges and justices but also members of the bar not holding judicial positions.

The Governor knew that this departure from precedent would be questioned and that if he appointed as chief justice not a justice, but a lawyer having no previous judicial experience, his appointee must be an experienced lawyer of unusual competence, recognized as such by his peers. The Governor sought out Vincent L. McKusick, a lawyer of exceptional ability who had been in practice in Maine for twenty-five years, and asked him to accept appointment as chief justice.

Vincent and his wife, Nancy, realized the time and energy which service as Chief Justice would require. They understood the financial sacrifices which Vincent would make if he went on the bench. In 1977, the justices of the Maine Supreme Judicial Court were paid less for their services than the supreme court justices of any other state. However, Vincent was interested in serving as a member of the Supreme Judicial Court and, in particular, in serving as chief justice of that court.

Vincent's interest in the judiciary came in part from his service as a law clerk, first for Chief Judge Learned Hand of the United States Court of Appeals for the Second Circuit and, thereafter, for Justice Felix Frankfurter of the Supreme Court of the United States. It also came through his service as one of the advisors of the Maine Supreme Judicial Court in that court's exercise of its rulemaking authority.

Vincent, a student of the history of the Supreme Judicial Court and an active practitioner in that court, became an authority on its responsibilities and jurisdiction. His address, reviewing the court's history and that of many of the justices who served thereon, given at a meeting of the Maine State Bar Association in 1968, is a major reference source for those studying the development of Maine's judi-

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cial system.

Significant developments in that system took place under the leadership of Chief Justices Williamson and Dufresne. These developments clarified, strengthened, and enlarged the authority of the Maine courts. The chief justice serving as a successor to Judge Dufresne would have an opportunity to further develop Maine's judicial system, firmly establishing it as a co-equal branch of the government of Maine. Vincent accepted with enthusiasm the Governor's appointment.

It was encouraging, after the appointment was announced, to discover that not only his peers, but the citizens of Maine in general, knew of Vincent's background, his outstanding ability, and his contribution to Maine's judicial system.

Chief Justice McKusick's brilliant record fully confirms the wisdom of his selection by Governor Longley. When Vincent's first term expired in 1984, he was appointed by Governor Brennan to a second seven-year term.

Vincent and his identical twin, Victor, were born in Parkman, Piscataquis County, on October 21, 1921. They were the children of Carroll L. and Ethel M. McKusick. The McKusick family, operating a large dairy farm, needed all of the helping hands the family could provide. The McKusick twins, early on, acquired the ability to work hard. They understood the sacrifices that their parents were making to provide opportunities for them. They learned the benefits and joys of family life in Maine.

Mr. and Mrs. McKusick, both with teaching experience, were recognized leaders in their county. Vincent's father was for many years an outstanding member of the Maine Senate and, following that service, was appointed to the State Board of Education.

Education given to Vincent by his family supplemented that provided by the public schools. The twins graduated from high school (they were named co-valedictorians of their class) well equipped to further their educations at the college level. Vincent entered Bates in the fall of 1940 as a member of the Class of 1944. His twin brother enrolled at Tufts to begin a brilliant career as a physician and educator.

While at Bates, Vincent secured employment at the local hospital, serving as its telephone operator on the 3 a.m. to 7 a.m. shift. In college, he came under the tutelage of Professor Brooks Quimby, Bates' debating coach whose debating teams, engaging in national and international competitions, were recognized as the very best in the United States.

After the United States entered World War II, Vincent accelerated his studies at Bates and in three years completed the requirements for graduation. He then joined the Army, which quickly recognized his extraordinary abilities as a student and as a leader and enrolled him in special training programs at Virginia Polytechnic In-

stitute and Drexel College in Philadelphia. Following this training, Vincent was assigned by the Army to Los Alamos, New Mexico, to work on the Manhattan Project.

When Vincent received his Army discharge, he was informed that the Massachusetts Institute of Technology would give him credit for several of the courses that he completed while in the Army, and would admit him with advance credits because of his Army experience in research areas. Using his special credits, Vincent graduated from M.I.T. in 1947 with Bachelor of Science and Master of Science degrees.

Early in his life, Vincent knew that he wanted to be a lawyer. The special training which he received in the Army and at M.I.T. stimulated his interest in the patent law area. Upon completing his studies at M.I.T., Vincent prepared and had published a study in the patent field entitled "Patent Policy of Educational Institutions."

Vincent was admitted to Harvard Law School in the Fall of 1947. In his beginning year at Harvard, Vincent clerked on a part-time basis for a law firm specializing in patent law. However, his experience at the Law School led him to conclude that he would not enter practice in the limited patent field, but would enter general practice.

At law school, although working to supplement the financial benefits that came to him under the federal educational program, Vincent finished his first year with grades entitling him to membership on the Harvard Law Review. In his first year as a member of the Review, Vincent worked under the direction of then President of the Review, Abram Chayes. At the end of his first year on the Review, he was elected as its president by his peers. He worked closely during his year as president with James Vorenberg, who succeeded Vincent as President of the Review. Dr. Chayes is now an outstanding member of the faculty at Harvard Law School, as is Dr. Vorenberg, who recently served as Dean of the School.

Following graduation, magna cum laude, from Harvard Law School in 1950, Vincent, as previously stated, became law clerk to Chief Judge Learned Hand of the United States Court of Appeals for the Second Circuit. On Judge Hand's recommendation he then served as law clerk for Mr. Justice Felix Frankfurter of the United States Supreme Court.

In 1951 Vincent married Nancy Elizabeth Green, who has been a major participant in the subsequent career decisions made by Vincent. Before completing his service with Judge Hand, Vincent contacted Hutchinson, Pierce, Atwood & Scribner, engaged in the general practice of law in Portland, Maine, and agreed to become an associate with that firm in the Fall of 1951. After making this commitment, Vincent was offered the Frankfurter clerkship. This was an invitation which no lawyer devoted to his profession could refuse. Vincent and Nancy returned to Portland and asked if the offer of employment could be kept open until the fall of 1952.

The question answered itself. Of course, the position would be kept open. For a Maine firm to have as an associate a lawyer who had clerked for Judge Learned Hand would be a special privilege, but to have a lawyer who had clerked for both Learned Hand and Felix Frankfurter was an almost unbelievable opportunity. Vincent completed his Frankfurter clerkship and began working in Maine in 1952.

One might have expected that Vincent, with his outstanding law school record, having served with distinction as law clerk for two of the nation's outstanding jurists, might have contracted Potomac Fever. Happily for Maine, such was not the case. Vincent and Nancy evidenced then, as they have in all the following years, a deep love for the State of Maine and its people. They desired to raise their family in Maine and to give their children some of the same benefits which a Maine birth, upbringing, and education had given to Vincent.

Because no office space was available when Vincent reported for work at Portland, he moved from the spacious surroundings of the Supreme Court of the United States to a desk in the library of the Maine firm. He never complained or objected to beginning work as an associate situated in the firm's library. He willingly undertook to do the many uninteresting tasks that were typically the lot of the youngest member of any small New England law firm.

By tradition, the newest member of the Portland office was charged with filling the firm's water cooler, which required attention at least twice a week. Although not objecting to this obligation, Vincent, after he had been with the firm for a short time, persuaded the partners that his time was too valuable to spend filling water bottles. A new method was found for keeping the water cooler in operation.

Vincent became a partner in the Portland firm in 1954, serving an unusually short period as an associate. He was assigned to assist Leonard A. Pierce, Esq. Pierce was a former member of the Harvard Law Review, giving him a common tie with Vincent.

A former member of the Maine Legislature, Pierce was an outstanding advocate, one of Maine's most able lawyers. Although never serving on the bench, he would have held his own with the best of the jurists in Maine, or on the federal bench. He was a stimulating working companion. As events developed, Pierce, during the eight years that Vincent worked at his right hand, had several public utility rate cases, an important constitutional case involving the Maine Turnpike Authority, and cases for the Maine Central Railroad and the New England Telephone Company. It would be hard to imagine a better transition than that made by Vincent from Hand to Frankfurter to Pierce. Following Mr. Pierce's death in 1960, Vincent took charge of the firm's work in the utility field.

It is fortunate for Maine that Leonard Pierce was on the commit-

tee appointed by the Maine Supreme Judicial Court to revise the Maine rules of civil procedure. Vincent worked with him and enjoyed learning in detail and working with Maine's existing rules. He worked on changes that would modernize Maine rules, benefiting both litigants and their lawyers. He was, from 1957 to 1959, a member of the Advisory Committee on Rules of Civil Procedure of the Maine Supreme Judicial Court, and was chairman of that committee from 1966 to 1975.

McKusick joined Professor Richard H. Field of the Harvard Law School, another Maine man, in writing *Maine Civil Practice*, a working guide for members of the Maine bar which was completed and published in 1959. The book was dedicated to Leonard A. Pierce. McKusick and Professor Kinvin Wroth, of the University of Maine School of Law, wrote and published a second edition of *Maine Civil Practice* in 1970.

Although Vincent had a demanding law practice, he always recognized his obligation to participate in civic and charitable activities and to work for improvement of the administration of Maine's legal system. Each fall Vincent was an active member of soliciting teams for the Portland Community Chest, frequently appearing before groups of Maine employees to urge their support of the Chest and the organizations to which it was committed. Early in his practice, Vincent joined with his partner, Jotham Pierce, to teach CLU courses to life insurance men.

For many years, he served as a Maine Commissioner on Uniform State Laws, as a director of the American Judicature Society, and as a member of and chairman of the Board of Editors of the Journal of the American Bar Association. He served for several years as chairman for the Committee on Federal Rules of the American Bar Association.

Vincent McKusick was the unusual man, an excellent scholar, interested in and enjoying the general practice of law, representing both litigants with small cases and adversaries with major causes. He was an enjoyable associate, a dedicated partner, an interesting companion, and a stimulating teacher of the young men and women who from time to time joined him in the practice of law.

Following Vincent's appointment as chief justice, a close friend, Professor Paul Freund of the Harvard Law School, wrote that his appointment was "vindication of the philosophy of personal federalism, of going back to your home community, strengthening it and drawing strength from it."

At the time that Vincent left the general practice of law to become a jurist, he told the members of his law firm that if they ever restricted the business of the firm to large and financially sound corporations and individuals with substantial incomes, it would become, to quote him, "a different firm—one less in touch with the community and one seen by the public as blind to any professional

motivation aside from serving selected clients for large compensation—and that firm in time would be less able to render the best service even to those corporate and well-to-do clients.”

He said then, and I am sure he would say now, that it is a challenge facing men and women coming to the bar to make certain that the rapid growth of law firms does not take from their partners and associates “the advantages of professionalism as against mere money making, of intimate personal family-like relations among the colleagues, and of individual community involvement.”

As Chief Justice of the Maine Supreme Judicial Court, Vincent McKusick has expanded, modernized, and strengthened Maine’s court system. Maine’s judicial system has taken its rightful place as a co-equal branch of the government of Maine. The people of Maine have recognized and are duly grateful to Vincent and Nancy McKusick for their outstanding contribution to this state.