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CONNECTING LAW AND LEGISLATURE: THE
LEGACY OF ED MUSKIE

Samuel J. Baldwin

CONNECTING LAW AND LEGISLATURE: THE LEGACY OF ED MUSKIE

Edmund Muskie's work impacts each of our lives, every day. The truth of this statement should become apparent as one explores the topics addressed in this symposium issue of the *Maine Law Review*, presented in honor of the centennial of Muskie's birth. And yet, among the great American politicians, he may seem forgotten.

His memory is in many ways confined to those who were present for his rise to national prominence in the 1960s, and to those steeped in environmental law, Maine political history, or one of the other fields in which he was most active. I will admit that prior to organizing the symposium from which this issue grew, I knew Muskie only as a caricature in a Hunter S. Thompson book about the 1972 presidential election.¹

Muskie was born in Rumford, Maine, in 1914. After Bates College and Cornell Law School, and a stint in the Navy during World War II, he had a successful career in Maine politics. He helped turn Maine's Democratic Party into a political force and was elected governor in 1954. In 1968, he was Hubert Humphrey's vice presidential nominee, and in 1972 Muskie was the presumptive Democratic Party candidate before losing the nomination to counter-culture favorite George McGovern. He would go on to serve as secretary of state under President Jimmy Carter.

But Muskie's most enduring legacy is as a United States senator. He served from 1958 to 1980, and during that time he was central to passage of the Clean Air Act and Clean Water Act, the Model Cities program, and the Budget Act of 1974. Although not the totality of his work, these three pieces of legislation highlight the scope and duration of Muskie's impact.

The Clean Air and Clean Water Acts—in many ways unchanged since Muskie and his staff drafted and worked on them—remain centerpieces of the federal government's authority to regulate in favor of environmental stewardship.² The Model Cities program, a component of President Lyndon Johnson's War on Poverty, shaped urban landscapes in ways that are still visible today.³ The Budget Act fundamentally changed the balance of power in the federal budget process.⁴

Late in Muskie's career, he returned to Maine as a leader of the fledgling access-to-justice movement, working to ensure that every Mainer has access to legal services. His work in this area demonstrates the power of Muskie's leadership and serves as an interesting case study in the interplay of national

1. HUNTER S. THOMPSON, FEAR AND LOATHING: ON THE CAMPAIGN TRAIL '72 (1973).

2. Leon Billings, *Edmund S. Muskie: A Man With a Vision*, 67 ME. L. REV. 233 (2015); Richard Lazarus, *Senator Edmund Muskie's Enduring Legacy in the Courts*, 67 ME. L. REV. 239 (2015).

3. Donald E. Nicoll, *Model Cities, Senator Muskie and Creative Federalism*, 67 ME. L. REV. 255 (2015); Kellen Zale, *Urban Development Legislation for Cities, by Cities*, 67 ME. L. REV. 265 (2015).

4. Louis Fisher, *Presidential Fiscal Accountability Following the Budget Act of 1974*, 67 ME. L. REV. 285 (2015).

politics and local action.⁵

Muskie's work has had far-reaching consequences—some of which are explored in the articles collected here—and those consequences reflect a consistent theme. Whatever the arena, Muskie's legacy is marked by action. And as congressional inaction becomes an established political reality, it is worth examining the legacy of a man who got things done.

In November 2014, the *Maine Law Review*, in conjunction with the University of Southern Maine's Muskie School of Public Service, hosted a day in honor of the centennial of Muskie's birth. Headlined by Secretary of State Madeline Albright and PBS News Hour correspondent Mark Shields—both former Muskie staffers—the day brought together many of Muskie's former colleagues, admirers, relatives, and friends.

The *Maine Law Review* presented a symposium addressing key areas of Muskie's legacy: environmental law, Model Cities and urban development, and access to justice.⁶ In each area, we brought together a former Muskie staffer and a legal scholar or current expert in the field. The staffer spoke, and now writes, about Muskie's work, and the scholar addresses contemporary issues. Each pair is preceded by a brief introduction written by a moderator, each distinguished in his own right.

This issue comprises a variety of writing approaches, including scholarly explorations, transcripts of remarks, and personal accounts of time spent with Senator Muskie. This is not just a compilation of traditional law review articles. But that variety reflects the great diversity among those who worked with Muskie, study his work, and follow in his footsteps, and we hope to have captured some of that diversity. Muskie's impact extends to a broad array of fields, and we sought to include distinct voices from several of them.

Each piece and each pairing stands alone as an insightful and often unique perspective into its respective subject. But we hope that by juxtaposing these perspectives, we may draw out several key themes not specifically addressed by any individual piece. Why were Muskie and his contemporaries able to accomplish such impactful legislative action? With any ambitious legislation, there will be downsides and unforeseen consequences; when do these outweigh the benefits of uniform, nationwide action, and how should this affect our choice to legislate in a given field? Is our answer to potential negative consequences to fail to act, or to ensure ongoing action? How do we design programs that draw on the passion that accompanies local initiative, and support them (or, at times, thwart them) through federal action?

The authors who contributed to this issue are an outstanding group. Their pieces have been a pleasure to produce, and we trust will be a pleasure to read. What these pieces cannot achieve, although not for lack of trying, is to do justice to

5. Robert E. Hirshon, *The Maine Law Review Symposium: The Legacy of Senator Edmund Muskie*, 67 ME. L. REV. 271 (2015); Hon. Howard Dana, *Legal Aid and Legal Services: An Overview*, 67 ME. L. REV. 275 (2015); Hon. Andrew M. Mead, *Remembering Ed Muskie: His Commitment and Contributions to Civil Access to Justice*, 67 ME. L. REV. 281 (2015).

6. Louis Fisher, who wrote on the budget for this issue, *supra* note 4, did not participate in the live symposium.

the astonishing reality of Muskie's accomplishments as a leader and legislator. The Man from Maine, as he was known in his day, was a powerful force of American politics, and we hope to have contributed in some small way to the preservation and continued vitality of his legacy.

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