

# Maine Law Review

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Volume 63  
Number 2 *Symposium: Remembering Judge  
Frank M. Coffin: A Remarkable Legacy*

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Article 5

January 2011

## Frank Morey Coffin's Political Years: Prelude to a Judgeship

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### Recommended Citation

Donald E. Nicoll, *Frank Morey Coffin's Political Years: Prelude to a Judgeship*, 63 Me. L. Rev. 397 (2011).  
Available at: <https://digitalcommons.mainerlaw.maine.edu/mlr/vol63/iss2/5>

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# FRANK MOREY COFFIN'S POLITICAL YEARS: PRELUDE TO A JUDGESHIP

*Don Nicoll*

- I. INTRODUCTION
- II. THE FIRST OF THREE BRANCHES
- III. UNFORESEEN CHANGES
- IV. INTO THE SECOND BRANCH
- V. TO THE THIRD BRANCH

## FRANK MOREY COFFIN'S POLITICAL YEARS: PRELUDE TO A JUDGESHIP

*Don Nicoll\**

### I. INTRODUCTION

Each day when I go to my study, I see a wood block print of two owls gazing at me with unblinking eyes. Ever alert, they remind me of the artist, who in his neat, fine hand, titled the print "Deux Hiboux," inscribed it to the recipients and signed it simply "FMC 8-2-87." In addition to his talents as an artist and friend in all seasons, FMC was a remarkable public servant in all three branches of the federal government and, with his friend and colleague Edmund S. Muskie, a creative political reformer for the State of Maine. Throughout his career he demonstrated that the art of politics was a noble calling, when dedicated to the cause of public service.

Frank Morey Coffin was programmed by inheritance for public service through politics. His grandfather, Frank Andrew Morey, a vivid presence in young Frank's life, was a Lewiston city attorney, five-term mayor, legislator, and the second Democratic speaker of the Maine House of Representatives following the Civil War. Grandfather Morey's law partner was Daniel McGillicuddy, also a state legislator and a three-term member of the United States House of Representatives. Young Frank's mother, Ruth Morey Coffin, was in his terms a "political activist," as well as a busy community volunteer.

Coffin attributed his decision to become a lawyer and his interest in public service to his grandfather, but there is no evidence that he harbored dreams of a ladder of success taking him to the Blaine House or the White House. He, like Muskie, operated without a detailed career plan. They both focused on preparing well, performing their tasks with distinction, and taking advantage of opportunities to make a difference in public service. The results were in many ways unpredictable, but impressive.

Following graduation from Bates College (1940), an Industrial Administrator degree from Harvard Business School (1943), service in the United States Navy (1943-1946) and a J.D. from Harvard Law School (1947), Coffin settled in Lewiston with his wife Ruth and in 1947 started a solo law practice and a clerkship with United States District Court Judge John D. Clifford (1947-1949). His principal concerns were fulfilling his responsibilities to the Judge, mastering the practice of law, and providing for his and Ruth's growing family. Along the way he managed to immerse himself in community activities, including his church and the United Way, and he delivered speeches to a variety of civic and social organizations. In 1949, he was appointed a member of the Lewiston Board of

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\* Don Nicoll was Judge Coffin's Maine Democratic State Committee executive secretary (1954-1956) and congressional administrative assistant (1957-1960). He was also Senator Edmund S. Muskie's news secretary and legislative assistant (1961) and administrative assistant (1962-1971). Information for this Article is from Judge Coffin's unpublished memoirs and the Author's records and recollections.

### Education.

The 1950 Democratic State Convention was in Lewiston and the young, up and coming lawyer was selected as keynoter. In his March 24 speech he referred to continued one-party domination of state government as “government by default” and called on the Democratic Party to rouse itself, forecasting a need for an expanded party organization with full-time staff. He noted the obstacles to Democratic victories, pointing out that:

[I]n the past three state elections, if we had elected every candidate whom we had placed on the ballot, if we had batted one thousand, we should still have been very much the minority party . . . How many Democrats have had to play tic tac toe in the voting booth for lack of anything else to do.

He went on to suggest that “nothing snowballs so fast as a political movement sparked with sincerity . . . Like so much sticky snow the independent voter lies waiting to go along with anyone who rolls a decent snowball.”

The speech attracted interest in Coffin as a potential candidate and leader and favorable notice from Lorin “Doc” Arnold, the political reporter for the *Bangor Daily News*. Arnold wrote admiringly:

Where have the Democrats been keeping that bright and magnetic fellow? They better get him out of hiding pronto! He is the best soldier I have seen break through the tent flaps in many years, and when he gets into battle, he will be a powerful and dangerous foe—if I am not mistaken. Young, level-headed, and clear-thinking, he really is terrific.<sup>1</sup>

There were additional political speeches in subsequent months, but no appreciable political demands in the next two years. His community involvement and professional commitments increased. In 1951, Edmund Muskie, then director of the Maine office of the Federal Office of Price Stabilization (OPS), offered Coffin the post of Assistant United States Attorney, responsible for OPS litigation. Coffin declined, not wanting to be distracted from his effort to build his law practice. That same year Mayor-elect Ernest Malenfant asked him to become corporation counsel for the City. He accepted that post, resigning from the Board of Education.

Coffin's indirect and direct involvement in politics accelerated in 1952. In February, he encountered his first clash between his determination of the public interest and campaign calculations. The Lewiston city election was scheduled for Monday, February 17, 1952. Mayor Malenfant was seeking re-election. A snowstorm started Sunday, turned into a raging blizzard overnight, and buried the city by Monday morning. The city's snow-plows were trapped in the Public Works lot. Election officials and voters could not get to the polls in most of the city. City Clerk Lucien Lebel and Corporation Counsel Coffin conferred by phone and agreed to reschedule the election by a week, a decision accepted by most as reasonable and practical. Mayor Malenfant did not. He was furious. His principal base of support was in the central city and those voters could and would walk to the polls. His anger accelerated after the rescheduled election, when he lost. In

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1. 2 FRANK M. COFFIN, LIFE AND TIMES IN THE THREE BRANCHES 261 (2004) [hereinafter LIFE AND TIMES].

complaining about his defeat, which he attributed to the delay, he referred to the corporation counsel as “that dirty double-crosser, Frank Coffin.”

Many years later Judge Coffin would ignore the clash with the mayor and recall the February blizzard of 1952 and bond counsel challenges to the legality of the delayed election. He took pride in his work getting prompt Maine Supreme Judicial Court review and action validating the city’s delayed vote for the bond issue.

The Lewiston bond issue case was argued before the court on May 13 and decided June 4. During the same time Coffin’s law practice expanded exponentially, in one instance having substantial implications for his future political career.

In late May, the Portland law firm Verrill, Dana, Walker, Philbrick and Whitehouse invited Coffin to join them as their principal trial lawyer. Flattered, but conscious of the implications for his existing practice, his home-town links in Lewiston and his family, he asked for time to think it over. He and his wife started their deliberations, but were soon interrupted by an unexpected development. On May 27, Coffin was invited to represent Governor Frederick G. Payne, who was a target in the Legislative Research Committee’s investigation of the Maine Liquor Commission. The Republican Governor, who was in the midst of a primary fight against Senator Ralph Owen Brewster, wanted a lawyer who was a Democrat and could separate his case from the partisan battle. Coffin accepted the invitation and represented Governor Payne in the hearings, defending him against claims by Herman Sahagian, owner of the Fairview Wine Corporation, that friends of the Governor had accepted money from Sahagian in return for influence with the Liquor Commission. With the help of a senior member of the Department of Finance staff, Maurice Williams, who later became Governor Muskie’s administrative assistant, Coffin was able to demolish Sahagian’s claims of unfair treatment by the Payne Administration and the Liquor Commission. The Legislature cleared the Governor and the Commission, confirming Coffin’s observation before the Committee that the accusations against the Governor amounted to “a case of very sour grapes.”

Coffin and Payne became good friends in the course of the liquor investigation and the Democratic lawyer made radio tapes endorsing the Governor in his race against Brewster, contributing to his victory in the June primary.

Once the liquor scandal was over, the Coffins returned to their discussion of the Verrill Dana offer and decided to accept. Home remained in Lewiston, but starting July 18, Coffin spent three days a week in Portland and three days a week in Lewiston, balancing the demands of his Verrill Dana obligations and those of his Lewiston clients while cutting back on his commitments to community organizations.

Coffin was still involved in what he later referred to as his legal practice “juggling act” when he spoke to the Cumberland County Democratic Committee at their April 22, 1953 Jefferson-Jackson Dinner. It was his first major political speech since his 1950 state convention speech. It would prove to be a life changer for him and a trigger for major shifts in Maine politics.

Maine’s political landscape had shifted dramatically since the previous June, when Coffin had concluded his successful defense of Governor Payne and had

agreed to join Verrill, Dana, Philbrick and Whitehouse. Following contentious primaries, Payne had defeated Ralph Owen Brewster and won the general election for Maine's second United States Senate seat, and Burton Cross had defeated Leroy Hussey for the gubernatorial nomination and won the subsequent election. Then in November, Dwight Eisenhower and his running mate Richard Nixon swept the presidential race. Maine Democrats, a number of whom had been comfortable in their minority status, enjoying the benefits of patronage and lacking the burdens of governing, were faced with the loss of federal patronage and little apparent chance of added elected positions.

Coffin started his speech with a reprise of his 1950 theme, chastising Democrats for "wasting [their] legacy," and then turned to what he called the party's "unmined ore." He noted that "despite underfunding, under-campaigning, lack of candidates, a dearth of top leaders, and factional fights, the Democratic Party had, in election after election, claimed forty percent of the vote." He suggested that the Eisenhower victory had been, in some ways, an advantage, because the party was now "free of the curse of patronage." He urged a turnaround, calling for a "long range view," attending "to the grass roots, recognizing that life seeps up, not down, perhaps hire a full time staff, and hold meetings all through the state, a sort of an 'open cracker barrel.'" He ended with the clarion call that would be heard over and over again in the 1954 campaign: "It's time for a change."

Newspapers, particularly the *Lewiston Daily Sun* and *Lewiston Evening Journal*, featured the speech in news reports and editorials. On April 23, the *Sun* printed most of the speech and referred to Coffin as "rapidly becoming noted for his ability within the Democratic party." That afternoon the *Journal* called his speech a "masterly analysis." On April 24, a *Sun* editorial called Coffin's effort:

[T]he best Democratic party speech made in this state in many, many years . . . done by a man commonly acknowledged to represent the intellectual, devoted, fighting leadership the Democratic party in Maine must have if it is to escape from what he has aptly called the "Death Valley" of Maine politics.<sup>2</sup>

Coffin sent a copy of his speech to Democratic National Committeeman Edmund Muskie and State Committee Chairman James Sawyer urging that the state party set up a "series of meetings throughout the state between now and the next convention." Muskie could do little to help in the coming months, because on April 27 he fell while doing some home remodeling and broke his back, an injury that would incapacitate him for several months and plague him for the rest of his life. Coffin came under pressure to run for office, but turned those suggestions aside because of his family and professional obligations, continuing through participation in party meetings and speeches to promote specific plans to revive the party. His juggling act was being more severely tested as the pace of his political involvement accelerated.

In late September the Coffins went to visit Muskie and his wife Jane at the Muskie's camp on China Lake where Muskie had been recuperating and rehabilitating himself with a regimen of swimming. Coffin and Muskie explored

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2. *Id.* at 278.

ideas Muskie had advanced for restoring two-party government in Maine and the prospects for concrete steps coming out of an October party leaders' meeting. They agreed to continue to look for ways to "revitalize the party" and to stay in touch. The October meeting of leaders, which did not include Coffin, produced expressions of continued commitment to rebuilding the party and a few organization and communication ideas, but no action.

On January 12, 1953, Coffin's shift from outside speechmaker to inside activist started, but almost derailed before it began. He picked up the *Lewiston Daily Sun* and saw his picture and the announcement that Democratic State Committee Chairman James Sawyer had appointed him chairman of the "Interim Platform Committee," the committee charged with responsibility for bringing a draft platform to the state convention in Lewiston, March 26-29.<sup>3</sup> He was offended. Sawyer had appointed him and announced the appointment without ever consulting him. He was ready to reject the assignment, but first consulted a friend, who suggested the opportunity to make a difference in the party was too great to let the Chairman's lack of courtesy get in the way. Coffin agreed, accepted his new role and started work with his fellow committee members: James Oliver of South Portland, former Republican Congressman from the First District, 1952 Democratic candidate for governor and announced candidate for the Democratic nomination for Congress from the First District, and Roland Guite of Ellsworth, State Committeeman for Hancock County and candidate for County Commissioner.

Coffin proposed and his committee colleagues agreed to develop and circulate a questionnaire as the first step in gathering proposals for the state platform. Working with several friends and gathering information from a number of sources, including state government department heads, he prepared a six-page questionnaire "asking opinions concerning changes to the State Constitution, conservation, labor, welfare, education, public utilities, highways, the administration of justice, and taxation." The committee met on February 28 and approved circulation of the questionnaire, which went to 800 "press and media, government officials, academics, members of both parties and independents" all over the state. That action garnered favorable press attention in the *Lewiston* and *Portland* papers, including a quotation from Coffin expressing his hope that "a platform can be built up from the ground, not suspended from the air."

There were about one hundred returns, which were collated, tabulated, and used to produce a four page platform in the form of a brochure that was circulated in advance to delegates, which was explained and discussed in an open meeting on the Friday night before the convention opened. The platform, approved by the delegates:

[C]alled for certain changes in the Constitution, particularly, changing our September election date to harmonize with the November date observed by the rest of the country, and abolishing the archaic Governor's Council; unifying forestry, inland fish and game, and sea and shore fisheries into one Department of Conservation, and laws reducing pollution, increasing fishways and regulating tree cutting, more emphasis on industrial development; a six year program of step increases for teachers' salaries; and disclosure of lobbyists' compensation and

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3. *Id.* at 286-87.

expenses.

The platform and the way it was developed, presented, debated, and adopted were hailed by the press. The *Portland Press Herald* called it “forward-looking” with “each point written in a short to-the-point manner” and the *Lewiston Daily Sun* editorial was headlined: “Off to a Flying Start,” commending the platform as “ideally suited to the character and composition of the party in this State.”<sup>4</sup>

In the course of an enthusiastic convention, keynoted by Waterville attorney Richard Dubord and addressed by New York Governor Averell Harriman, the Androscoggin County delegation elected Coffin to the state committee, joining Rose Guilman, a textile worker union stalwart. The county delegation put out a press release saying that Coffin’s election was “looked upon as a step toward the State Chairman’s post.” A consensus was building, aided by the work of Waterville City Treasurer and Kennebec County State Committeeman Richard McMahon, a close ally of Muskie, that Coffin would be elected chairman of the state committee at its April 4 meeting.

There was an ominous gap in the post-convention euphoria, however, highlighted in a *Portland Press Herald* March 30 editorial: “Democrats Shift from Low to Second to Reverse.”<sup>5</sup> The gap was the absence of candidates for the major offices up for election that September: governor, senator, and congress in the second and third districts. The only announced candidate for major office as of the end of the state convention was James Oliver in the First District.

The state committee members elected Coffin chairman on April 4 and approved his plan to establish a permanent office with an executive secretary—so long as he could raise the money to support it. That effort, which Coffin dubbed “Operation Keystone,” and the search for major candidates, were his first priorities. The candidate recruitment effort came first. Nomination papers had to be filed by April 19, just fifteen days from the state committee meeting.

Accounts of those two weeks read like the *Perils of Pauline*. Coffin and Muskie were on the phone to each other and a long list of prospective candidates. In the end, they convinced an attractive list of candidates to join Jim Oliver in the race: Colby College professor of history and government Paul Fullam for the United States Senate seat occupied by Senator Margaret Chase Smith; Lewiston attorney and subsequent Superior and Supreme Judicial Court Justice Thomas Delahanty for the Second District Congressional seat held by Charles Nelson; Presque Isle music store proprietor Kenneth Colbath for Congressman Clifford McIntire’s Third District seat; and Edmund Muskie to challenge Governor Burton Cross. In spite of all the obstacles, Coffin and Muskie and a crew of volunteers recruited the candidates and filed the necessary petitions with more than enough signatures by the deadline.

With the top candidates on board, after a trip to Washington to seek support from the Democratic National Committee and the Congressional and Senate Campaign Committees, Coffin closed in on Operation Keystone. By mid-May he had obtained \$2,000 in pledges, against his goal of raising \$10,000, with a promise of a similar amount in the following year. On the strength of those pledges he

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4. *Id.* at 289.

5. *Id.* at 291.



recruited WLAM-AM/WLAM-TV news editor Don Nicoll as executive secretary.

With the promised state committee organization in place, Coffin led the development of a multi-faceted campaign that included expanding and strengthening local committees, recruiting write-in candidates for county and local offices in the June 21 primary and planning with the top candidates a coordinated campaign that covered everything from campaign strategies and tactics to itineraries, to advertising on radio and television, to fund-raising. It was an effort in which the Coffin-Muskie leadership did not take over the party, but in which old-timers and new arrivals, staunch, life-long Democrats and Independents and Republicans could work together. The theme of the campaign was restoring two-party government, a condition in which citizens could benefit from competition between the parties. It was a campaign infused with idealism, symbolized by the creation of the Democratic Maine Advisory Council, chaired by former Bowdoin College president Kenneth Sills and including representatives from business, professional, and labor leaders.

The techniques of the campaign were primitive by today's standards. Technology was limited, money was scarce, and campaign personnel were in short supply. But the combination of Frank Coffin's strategic and organization skills, Edmund Muskie's ability to communicate with voters, Paul Fullam's eloquence, the appeal and integrity of the congressional candidates, and the underlying resonance of their campaign message motivated rank and file Democratic candidates and workers and enabled the party to capitalize on the unpopularity and missteps of Governor Cross and the disaffection in the Republican Party. Campaign hopes moved from the early plan to simply make this a "building year" to cautious hope that the Democrats might at least win the governorship.

The gubernatorial race went down to the wire, with virtually all of the political observers predicting that Muskie would come close, but not win. On September 13 the experts were confounded and Muskie won with 54% of the vote. Fullam, Oliver, Delahanty, and Colbath all did better than expected, cutting their opponents' margins from their usual overwhelming levels. In the state legislative races the Democrats captured ten additional House seats and boosted their number in the Senate to four. And this was a statewide campaign waged at a total cost of about \$18,000.

After the election Muskie and Coffin were in demand around the country as harbingers of victory before the November general elections in the rest of the country. At the same time, they were traveling the state for an exhausting series of Democratic victory dinners. The Governor-elect had to sandwich in the speaking dates outside the state and political gatherings in Maine between budget hearings in preparation for the development of his first budget, due to be presented in January. It soon became apparent that the Governor would need volunteers to help manage the workload in his office.

Maine's Governor at that time had a staff of five: an administrative assistant, a press secretary, a personal secretary, and two clerks. Muskie had selected Maurice Williams, the talented senior civil servant in the Department of Finance, as his administrative assistant and Floyd Nute, bureau chief for UPI in Augusta, as his press secretary. His able and gracious law office secretary, Marjorie Hutchinson, was his personal secretary and general office manager. Beyond that personal staff,

there were no state personnel resources that he could count on as part of the "Muskie Administration." Department heads had all been appointed by his predecessors for fixed terms. He had no cabinet loyal to him. Some of the commissioners were friendly and ready to help. Some had strong ties to the Republican Party or to policies and practices the Governor-elect and his party had signaled were in need of change. The Governor also had to cope with the Executive Council, a check on the power of the Governor inherited from colonial Massachusetts, with its members elected by the Republican Legislature.

During the first year of Governor Muskie's first term, particularly, Coffin served as senior advisor and consultant, providing advice, recruiting volunteers to work on critical issues, working on policy and legislative drafts, and negotiating on behalf of the Governor. He made the Democratic Party's executive secretary, Nicoll, available as a volunteer member of the Governor's staff, doing research, writing, and negotiations. All of this was on top of the continued effort to expand the party's number of town committees, increase the number of volunteers, diversify communications, raise money, and prepare for the 1956 campaign with more candidates and a coordinated plan at all levels. Coffin took responsibility for leadership in those areas and worked particularly hard on fund-raising. At the same time, as state chairman and gubernatorial advisor, he had to deal with fractious party members who wanted help in getting patronage appointments from the Governor, for themselves or for friends. There were few appointments available and the Governor was constrained from the free choice some wanted by the requirements of the offices and by the attitudes of the executive council. The state chairman frequently got the assignment of explaining "why not" to unhappy party activists.

The year 1955 also marked Coffin's first involvement in politics at the national level. He and Muskie had spoken at Democratic rallies and conventions in several states following the September 1954 election in Maine and there had been contacts with the Democratic National Committee chairman during and since the 1954 campaign, but the activity had been intermittent and focused on individual events. In November 1955, party chairman Paul Butler appointed Coffin to chair one of the national committee's four subcommittees of the Advisory Council on Political Organizations. The council, chaired by Michigan State Committee Chairman Neil Staebler, was a major part of Butler's effort to strengthen grass roots organization in the Democratic Party nationally, building on the kind of work that was being done in states like Maine and Michigan. Coffin was active in the Council until the end of the decade, directly or through his assistant.

Through it all, Coffin continued to practice law, which was made more difficult by the multiple demands on his time in his political responsibilities and by the occasional conflict between his advocacy on behalf of the Governor's programs and some of his partners' clients. It was a difficult time for Coffin, tired and stressed in spite of—and partially because of—the successes of 1954 and the accomplishments of 1955.

Moving under the surface of all those cross-currents was the question of who would seek the Democratic nomination for Congress from the Second District? Thomas Delahanty, who had been a reluctant candidate in 1954, indicated a willingness to run. Then, as 1956 approached, Androscoggin County attorney and

former congressional candidate Edward Beauchamp let it be known he was interested. The two possible candidates and others talked about the prospects of a primary campaign and other alternatives and concluded that Frank Coffin would be a stronger candidate than either of them, particularly after a primary contest between them. In the meantime, on the Republican side, Congressman Charles Nelson had announced that he would not seek re-election and Republican State Senate Majority Leader James Reid signaled the possibility that he would run. Coffin, who had intended to continue his work as state chairman into 1958, came under increased pressure to run for Congress. Reid announced his candidacy on March 20, 1956. Coffin announced the next day.

Following his announcement, somehow rejuvenated by the prospect of a campaign, Coffin plunged into the preliminaries and the task of presiding at the state convention in Brewer. The convention was almost snowbound, but successful, with the largest attendance in the party's history up to that point, spirited caucuses with multiple contests for membership on the state committee, another open debate session on the draft platform, all topped off with a rollicking, improvised speaking program at the packed, closing banquet. Senator Henry Jackson (D-WA), the featured speaker for the banquet, had been snowed out. A home grown collection of talks by the party's leaders was put together, mixing very little in political messages with a lot of humor, and all climaxed with remarks by Cape Elizabeth delegate and iconic actress Bette Davis.

Coffin set out from the state convention to encounter a primary opponent, Roger Dube of Lewiston, a former county commissioner and the Democrats' 1952 candidate for the United States Senate. Dube was a flamboyant small businessman and bon vivant, not taken seriously by some, but a speaker who connected easily with his audiences and a clear campaign message aimed at getting maximum benefit from his Franco-American roots. Coffin was a respected party leader and trial lawyer, with finely honed debating skills, but he was not experienced as a stump speaker, campaigning for himself. Dube attacked Coffin as "Little Lord Fauntleroy" and accused him of being part of "that rare minority in our party with the soft hands and slick hair who has jumped on the bandwagon which we, the little fellows with dirty faces, have built through effort and heartaches in the lean years when the weak of heart dared not run for office." It was a painful campaign for Coffin, in large part because of the uncertainty about the possibility of ethnic voting turning the tide. In the end, however, he felt the contest was a necessary learning experience and he defeated Dube 70% to 30%. In his own primary, James Reid defeated Neil Bishop (a Republican for Muskie in the 1954 campaign) 61% to 39%.

In that primary election there was a harbinger for the September results. There were suggestions that the Republicans would prove that the 1954 Muskie victory was a fluke, but in the primary vote Muskie garnered over 9,000 more votes than he had in the 1954 primary, while the Republican total dropped by 13,000.

The state committee had re-elected Coffin as chairman, so for the duration of the campaign Nicoll was left in charge of the day-to-day operations of the office while Coffin devoted himself to the contest with Reid. He developed a detailed campaign platform, advocating a variety of initiatives to deal with economic development, freight rates, imports and agriculture, and called for a break in the

single party representation in the Maine delegation to Congress. He fielded a large group of volunteers and pursued an active campaign through the district during the month of July. His opponent was relatively inactive, making an attack on Coffin as “a fast double-talking club candidate like Adlai Stevenson” ready to “promise anybody anything.”

The campaign picked up in August as Reid put forward his own campaign proposals and attacked Coffin's platform and delegation criticisms. That led to some back and forth between the candidates that had no observable effect on voter sentiments. Then the campaign broke open, first with a Republican national campaign foray into the district with an Eisenhower “bandwagon” and a manufactured exchange between the publisher of the *Rockland Courier-Gazette* and President Eisenhower calling for a clean sweep by the Republicans in Maine. That was followed on September 2, just eight days before the election, with a *Boston Herald* report charging heavy labor influence on the Muskie and Coffin campaigns. The article featured a picture of Governor Muskie at his desk, seated next to Denis Blais, a prominent local CIO Textile Workers Union official and political activist. Republican officials and candidates expressed shock and dismay at this invasion of organized labor influence in Maine campaigns and demanded explanations from the Democrats. Muskie went on television and excoriated the *Herald* and the opposition, showing that the photograph had been taken eighteen months before when he had been mediating a dispute between the Bates Manufacturing Company and the textile union. The original photo had shown Blais, Muskie, and Louis Laun, a Bates Mill official. The *Herald* had cropped the photo to make it appear that the Governor had been caught meeting with a labor official privately in his office.<sup>6</sup>

Then Coffin and Reid appeared in the second of their two televised debates, the first of which had been held just before the *Herald* story, and Reid was put on the defensive over the subject of the cropped photo and labor campaign contributions. The first debate had been called a draw. The second was considered a Coffin win.

By election eve reporters and pundits were calling the gubernatorial race a probable Muskie victory and the First and Second District congressional races close, but probable Republican wins. Muskie won with 59% of the vote and Coffin won with 54%, defeating Reid 55,430 to 48,292. James Oliver narrowly lost to Robert Hale in the First District. Congressman-elect Coffin was the first Democrat elected to the Congress from Maine in twenty-two years. Governor Muskie's re-election and Coffin's election were headline stories around the nation.

## II. THE FIRST OF THREE BRANCHES

The months that followed were full of victory celebrations, campaign appearances in other states, closing out old obligations, and preparations for life in Washington.

Following an initial visit to Washington that included meetings with Democratic National Committee chairman Paul Butler, Speaker Sam Rayburn,

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6. *Id.* at 364-65.

Adlai Stevenson, various officials in the House of Representatives, and Senator Frederick Payne and his staff, plus old friends and new, and a preliminary sounding of housing possibilities, the Coffins returned to Maine for the less than three month push for their move to the Capitol.

In the midst of wrapping-up and getting ready for his own career shift, Coffin fulfilled his obligations to the Democratic National Committee by campaigning for congressional candidates in Republican strongholds in Vermont, Pennsylvania, Michigan, and Indiana. At home, in addition to several victory and good-bye parties he scheduled constituent meetings where he talked about his policy interests and views, and listened to voters express their concerns. He laid the groundwork for constituent service by deciding to set up a staffed district office, located in his former law office and state committee headquarters.

Coffin consulted with other party leaders and worked with the state committee to select a successor as chairman. The choice, approved unanimously, was his long-time friend John Donovan, professor of government at Bates College, who had been a classmate of Ruth Coffin's at Bates. State Committee Executive Secretary Nicoll would go to Washington as Coffin's administrative assistant. He rounded out his initial staff with Mignonne Bouvier of Lewiston as his secretary and Elizabeth Donahue, daughter of former Portland Postmaster Helen Donahue and a former Senator Herbert Lehman (D-NY) staffer, as his legislative assistant.

Now the focus shifted to Washington and service in the Congress. Coffin had decided to seek appointment to the House Foreign Affairs Committee because of his deep concerns over the Cold War, the Middle East, and the other threats to world stability and peace. He made his wishes known to Richard Bolling (D-MO) of the House Ways and Means Committee, where committee assignments were made, and obtained the endorsement of the New England Democratic caucus. It is evident from his interactions with Speaker Rayburn during his years in the House that he had impressed him favorably and his candidacy was probably helped by the fact that he was the only freshman Democrat elected to the House east of the Mississippi in 1956. He was appointed.

Coffin's first term was marked by immersion in Foreign Affairs Committee work on the Middle East Crisis, the European Study Mission in the aftermath of the Hungarian Revolution and Soviet intervention, the first of his Canadian Study Missions with Representative Brooks Hays (D-AR), and legislation involving the Mutual Security Act and foreign aid.

Notable among his legislative involvements outside his Foreign Affairs Committee assignment was his participation in two debates, and vote in a third instance regarding federal court procedures. The first was his opposition to H.R. 7915, a bill designed to impose a new rule of criminal procedure in the wake of the Supreme Court decision in *Jencks v. United States*,<sup>7</sup> where the United States Supreme Court, in Coffin's words:

[H]ad ruled that a defendant in a federal criminal prosecution, in order to be prepared to cross examine a government witness, had the right to see any statements that witness had made to a government agent, if the contents related to that witness's present testimony. The trial judge was not to examine the

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7. 353 U.S. 657 (1957).

statements privately and have a veto power.<sup>8</sup>

The legislation was introduced with the claim that *Jencks* threatened national security and was rushed through the House and Senate, without hearings, and enacted within a week. In his remarks opposing the legislation, Coffin said, “can we expect to add to the dignity of our system of justice . . . without having conducted any hearings in depth, or seeking the reasoned advice of bench and bar?”<sup>9</sup>

The second court-related bill was crafted by the Judiciary Committee and aimed at overruling the Supreme Court’s decision in *Mallory v. United States*,<sup>10</sup> which:

[H]ad set aside the conviction of a 19 year old youth of limited intelligence, who had been taken to the police station at about 2:30 P.M. and, without opportunity to consult a lawyer, was subjected to unremitting questioning until around midnight, when he signed a confession. . . . [The Committee] bill [H.R. 11477] provided that the police could detain a suspect for any length of time for questioning and that mere delay in arraignment would be no basis for excluding a confession.<sup>11</sup>

Coffin was troubled by the substance of the legislation and by using legislation to govern the procedures of United States courts. He voted against the bill, but did not take part in the debate. The bill passed the House, but died in the Senate.

The third bill was H.R. 3, designed to overturn a Supreme Court decision that reversed a conviction under a Pennsylvania anti-sedition act that had been preempted by the federal Smith Act.<sup>12</sup> H.R. 3 declared “that no act of Congress should be held to ‘occupy the field’ unless there was an express provision to that effect or there was a ‘direct and positive conflict’ between the federal and the state law.”<sup>13</sup> Coffin “felt that for Congress to try to paint one broad brush formula governing preemption would be a horrendous mistake.” He prepared intensively for the debate and made a lengthy statement on the floor of the House. The House passed the legislation, but it died in the Senate.

The Congressman’s work, of course, was not all committee action, floor debate, and votes. He was engaged in constituent service, with his staff helping Maine citizens navigate the federal bureaucracy, seeking modifications in federal rules that unfairly or unnecessarily had an adverse effect on individuals, corporations, organizations or groups, and joining forces with other members of the House and Senate seeking legislation or executive branch action to benefit the State or District. When in the state, he would travel through the District for open forums, meetings with constituent groups, and consultations with experts.

There were times when he fretted about time away from his family, the tedium of chores like signing correspondence or instances of partisan bickering, but he found the work of the House invigorating and the interaction with constituents rewarding, validating his commitment to public service through politics.

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8. LIFE AND TIMES, *supra* note 1, at 408-09.

9. 85 CONG. REC. H16124 (daily ed. Aug. 27, 1957) (statement of Rep. Frank Coffin).

10. 354 U.S. 449 (1957).

11. LIFE AND TIMES, *supra* note 1, at 422.

12. 18 U.S.C. § 2385 (1957).

13. LIFE AND TIMES, *supra* note 1, at 422-23.

By early fall 1957, however, he was under pressure to consider running for Governor in 1958. There had been a possibility that Governor Muskie would seek a third two-year term. That seemed less and less likely, and Muskie began throwing out hints that he thought Frank Coffin should be the Democratic candidate for Governor in the next election. There was speculation in the press. He was getting conflicting advice from Maine colleagues and constituents. Muskie was pressuring him publicly and privately. By January, Coffin had concluded that he should run for re-election. He thought that his work on the Foreign Affairs Committee and in the House was very important and that he was gaining the experience and skill to make a real contribution through his congressional service. He did not think he could continue to do his work in the House in 1958 and wage an effective campaign for Governor. In addition, he wanted to broaden the Democratic Party leadership in Maine and urged that Maynard Dolloff, Master of the State Grange, be recruited to run for Governor. He thought Dolloff could expand the base of the party to rural areas, lessening its dependence on the traditional urban core.

In the meantime, Clinton Clauson, Mayor of Waterville and former director of the United States Internal Revenue Service's office in Maine, had indicated his interest in running for Governor. He announced his candidacy on February 11. Muskie kept the pressure on Coffin to run. Coffin held fast and on May 7 announced his candidacy for re-election. He continued to encourage Dolloff's candidacy and helped in his race for the nomination. Muskie had announced his candidacy for United States Senator, running against Senator Payne. In the June primary, Clauson defeated Dolloff for the gubernatorial nomination, and Democrats pulled together and mounted a coordinated campaign. The Republican candidate for Congress in the Second District was Neil Bishop, who had been a Muskie Republican in the 1954 campaign and opposed James Reid in the 1956 Republican primary for the Second District seat. The Republican candidate for Governor was former Governor and former Ambassador to Pakistan Horace Hildreth; James Oliver was the Democratic candidate for Congress in the First District, running against incumbent Robert Hale.

The Democrats held their Jefferson-Jackson Dinner shortly after the June primary. The featured speaker was Speaker Sam Rayburn, whose trip to Maine at Coffin's invitation was a mark of his regard for the Maine Congressman. The Speaker seldom traveled anywhere except Washington and his home in Texas.

Coffin's 1958 campaign in Maine was less intense than the 1956 run, largely because he was tied up with legislative work in Washington through much of the month of July. As always, he was highly organized and lined up a cadre of volunteers in each of the counties. The intensive campaigning began in the third week of August with an August 19 debate with Bishop in Waterville. The topic was foreign aid. Bishop, who had accused Coffin earlier of dealing in "fancy talk and catchy phrases," went so far as to speculate "that the crisis in the Middle East was created to ensure the passage of the aid bill." He concluded his assaults on Coffin's defense of foreign aid with: "Regardless of Coffin's smooth talk, figures, and statistics, I think he's wrong."<sup>14</sup> Press reports declared Coffin the clear winner.

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14. *Id.* at 425.

The two candidates debated again August 28 on the subject of farm policy. Bishop's performance was more credible, but Coffin was again declared the winner in press reports.

The next morning Coffin's father died. Coffin suspended his campaign, but the campaign received a jolt and an unexpected boost from former Maine Senator Ralph Owen Brewster. Brewster, unaware of Herbert Coffin's death, launched a vitriolic attack on Frank Coffin as a dyed-in-the-wool left-wing Democrat and a tool of radical labor leaders. It was reminiscent of Senator Joseph McCarthy (R-WI) and the kind of character attacks that had contributed to Brewster's defeat by Senator Payne in 1952.

At a rally in Waterville, Muskie reminded his listeners of the high positions Brewster had occupied in Maine as Governor, United States Representative, and United States Senator, then thundered in indignation that Brewster had sunk "to a mere hatchet man to gain political power and prestige." He went on to say that Brewster's behavior made him cringe. At the same rally Democratic National Committeeman Richard Dubord declared that Brewster's comments were the "lowest blow that has been struck" in the campaign.<sup>15</sup> The next day Brewster apologized, saying he had not been aware of Coffin's father's death when he made his remarks. It was too late. Brewster's verbal assault in 1958 was the equivalent of the *Boston Herald* cropped photograph in 1956, both aimed at claiming the Democrats were controlled by left-wing labor leaders and their allies.

Maine's last September election was held on the eighth. With the exception of Maine's Third District, it was a clean sweep for the major offices: Edmund Muskie defeated Frederick Payne for the United States Senate; Clinton Clauson defeated Horace Hildreth for Governor; Frank Coffin was re-elected in the Second District by a margin of 21,000, garnering 61% of the vote in his defeat of Neil Bishop; and James Oliver defeated Robert Hale to return to the First District seat. Coffin noted that between 1956 and 1958, Democratic enrollments increased by 8.4%, while Republican enrollments went up by only .68%. He felt the trend launched in 1954 was real and continuing.

Following the election, Frank and Ruth Coffin traveled to Montreal and rural Quebec for a brief vacation, after which he joined his colleague Representative Brooks Hays (D-AR) for the second of their Canadian Study Mission trips. This was a twelve day 7,000 mile journey to Montreal, Ottawa, Toronto, Winnipeg, Vancouver, and Kitimat, British Columbia. At the end of the Canadian visit Representative Hays returned to Arkansas for the wind-up of what he had expected to be an easy re-election. He did not know that Governor Orval Faubus had a candidate primed to run a last-minute write-in campaign against him. In eight days the Governor and his agent/candidate engineered Hays's defeat. This was a major blow for Coffin. Nevertheless the two Congressmen finished their report and issued it December 19 to very favorable press commentaries on both sides of the border. Coffin was "regarded as the initiator of the enterprise," according to the *Montreal Star*.<sup>16</sup> One of the most important results of the Coffin-Hays report was the development of the Canada-United States Interparliamentary Group, which was

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15. *Id.* at 426.

16. *Id.* at 430.



authorized by law in both countries and continues to operate fifty-two years after its establishment.<sup>17</sup>

At the beginning of his second term, Coffin indicated his interest in appointment to the Joint Economic Committee. The Speaker appointed him within two weeks. Coffin regarded that as a great learning experience, but his principal legislative work continued to be in the Foreign Affairs Committee where he concentrated much of his interest on the Development Loan Fund, which had been authorized in 1957. He made an intensive study of the agency and prepared a detailed report on his findings that he presented to the House at the end of a legislative day. He was also actively involved the Mutual Security Act authorization debates.

That year, Coffin also organized and led a three-member mission of the Foreign Affairs Committee European Subcommittee to study the European Economic Community or Common Market. He later wrote that the mission "was the most exciting and rewarding experience" of his congressional life.<sup>18</sup> The Foreign Affairs Committee could not spare staff for the mission, but Joint Economic Committee Chairman Senator Paul Douglas (D-IL) made available a staff economist as a consultant for the preparations and trip. The other members of the study group were Representative Alvin Bentley (R-MI) and Representative Cornelius Gallagher (D-NJ). During the month of October they traveled to eleven European cities and six countries. They held eighty-seven conferences with more than 270 officials, bankers, businessmen, economists, labor leaders, and journalists. Coffin filled 444 small notebook pages with notes and wrote six newsletters to the Maine press during the trip. The Joint Economic Committee economist had been loaned to the study group as a consultant, but was not free to help with the report. Coffin took the responsibility for writing the report. After fulfilling prior commitments to be in Maine for most of November, he secluded himself in his study in his Washington home and drafted what became a ninety-two-page report, with a forty-six page appendix. The report was issued January 11, 1960.

### III. UNFORESEEN CHANGES

In mid-November, Senator John Kennedy (D-MA) had visited Maine as part of his pre-presidential campaign, speaking at a Democratic rally in Augusta and meeting with Governor Clauson, Senator Muskie, and Congressman Coffin to discuss a possible endorsement from the Maine Democrats. In that meeting, Coffin recommended deferring an endorsement for some weeks to avoid the appearance of being puppets in the Kennedy campaign. The group agreed and Governor Clauson was to be responsible for issuing the endorsement when they had all agreed. On December 28, Coffin called the Governor to authorize adding his signature to the endorsement. He also recommended that the Governor urge Lucia Cormier to run against Senator Smith in 1960.

On December 29, Governor Clauson attended a banquet in Lewiston before returning to the Blaine House. At 2:30 the next morning he died in his sleep. He

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17. See <http://www2.parl.gc.ca/ia/Association.aspx?Lang=E&DCId=4&DTId=6&P=overview&ORGId=1383>.

18. LIFE AND TIMES, *supra* note 1, at 440.

was succeeded as Governor by John Reed, President of the State Senate. The 1960 general election, to be held in November for the first time in Maine history, would include the election of a Governor to complete the final two years of the term that began in January 1959. The Democrats would need to nominate a candidate to run against John Reed or another Republican. Coffin was faced once more with the prospect of running for Governor.

There followed a series of intensive conversations and consultations, in Maine and in Washington. At the same time, Coffin was engaged in leadership level deliberations on an upcoming Joint Economic Committee report on economic growth and fiscal policies. There were reactions from embassies, the United States State Department, and the press to the European Economic Community Study Group report. At the end of the month he had decided to run for Governor. He announced his candidacy on February 3.

Over the next few months Coffin developed a classic Coffin campaign. He marshaled volunteers for issues development, fund-raising, and political operations. He worked with the Democratic platform committee, supporting a continuation of the issues conference approach to platform building and integrating his proposed gubernatorial program with the party's detailed platform. He developed with his fellow candidates, Lucia Cormier for the United States Senate, Representative James Oliver in the First District, John Donovan in the Second District, and David Roberts in the Third District, a coordinated approach to campaigning.

His opponent was regarded as a pleasant, decent, competent legislator and governor, but not in the same class as Coffin. The Congressman brought to the race his exemplary record as a national legislator on both national issues and constituent support and service. The great unknown that few examined early in the campaign was how the shift to a November election might affect the outcome in a year when the state candidates would share the ballot with presidential candidates. In the end it was that factor that determined the results of the campaign.

There were 421,000 votes cast for President and 417,000 for Governor. There were more votes cast for Governor in 1960 than in any previous election. Frank Coffin received more votes for Governor than any gubernatorial candidate in a prior election, but he lost to John Reed, 197,000 to 220,000. John Kennedy lost to Richard Nixon in the presidential tally, 181,000 to 240,000. Coffin ran ahead of Kennedy by 16,000, but that was not enough. The key statistics can be seen in the comparison of urban and rural votes between 1958 and 1960. Total city votes increased by 46,000 between those two years, with Reed receiving 22,000 of the increase and Coffin 24,000. In the towns, 91,000 more voters went to the polls in 1960 than those in 1958. Of those voters, 64,000 voted for Reed and 27,000 voted for Coffin.

The pattern of the voting shifts, coupled with anecdotal evidence, support the conclusion that there was a substantial anti-Kennedy, straight-ticket vote in the rural areas, much of it stimulated by fear of a Catholic president. The Democratic gains between 1954 and 1960 had not been sufficient to overcome that bias.

Coffin ended the campaign grateful for all those who had contributed to his campaign with their labor, their ideas, and their financial support. He wrote that his failure to persuade a majority of Mainers to support him "was humbling. Up to now, I had moved from success to success, both in law and in politics. Now I knew

I had limitations.” He was, in his words, “ready to move on.”

#### IV. INTO THE SECOND BRANCH

Shortly after the election, President-elect Kennedy called Coffin to express his regrets over the outcome, to tell him that he would like to have him in his administration and to ask him to keep himself open for an appointment. Coffin thanked Kennedy and said he certainly would.

On January 24, 1961, President Kennedy nominated Coffin to be Managing Director of the Development Loan Fund, a program that was of great interest to him and the agency he had studied more intently than any other member of Congress.

The new administration soon set about reorganizing the foreign aid program. Coffin was part of the team that developed the new plan, which consolidated several aid agencies, including the Development Loan Fund, into the Agency for International Development (AID). On November 2, Coffin was sworn in as Deputy Administrator for Program of AID.

In mid-September 1963, Ralph Dungan, an aide to President Kennedy, told Coffin the President was considering appointing him Ambassador to Panama. The Coffins discussed the proposal and in early October advised the White House that he would accept the offer. The President announced his intention to nominate Frank Coffin as ambassador to Panama on November 16. The papers had not been completed and sent to the Senate, however, when the President was assassinated on November 22.

When President Johnson saw the pending nomination, he let it be known he would not sign it. He recalled a 1961 cocktail party where he and Coffin had a brief exchange that offended him. Coffin’s recollection of the exchange is as follows:

Vice President Johnson: The administration is trying to get this back door financing bill through. They’ll never go for it. They wouldn’t want to lose control of expenditures. Frank, you’ve been in the House. You know that’s so.

Coffin: Oh no, you’re wrong, Mr. Vice President. Under the Government Corporation Control Act Congress can still cut off lending if it’s not satisfied.

President Johnson let Senator Muskie know on December 11 that he would withdraw Coffin’s proposed nomination. Muskie urged Coffin to go to the White House and straighten out his problem with the President. Coffin went to the White House to talk with Dungan and wrote a letter to the President. Dungan talked to the President on December 17 and got a final no from President Johnson. Then Muskie talked with Dungan and there were a number of efforts to find an alternative appointment. Finally, in January 1964, a proposal was advanced for Coffin to become the United States Representative to the Development Assistance Committee (DAC) in Paris and Deputy to the Ambassador to the Organization for Economic Cooperation and Development (OECD). Coffin was initially inclined to dismiss the proposal, friends persuaded him to look at the appointment in a different light. He accepted. On February 11, he met with the President, who gave the appointment his blessing without any mention of the earlier unpleasantness.

Three days later, Coffin as sworn in and on February 17 he flew to Paris.

#### V. TO THE THIRD BRANCH

In December 1964, Judge Peter Woodbury retired from the United States Court of Appeals for the First Circuit. It was determined that this vacancy was a rotating position whose turn had come to Maine. Senator Muskie, as the Democratic Senator from Maine, was asked to submit recommendations to the President for the appointment.

There are a number of descriptions of what transpired over the following months with, in some cases, very different versions of the details. All seem to agree on the roles played by different actors. What follows is this Author's understanding, based on his direct knowledge of some events and contemporaneous accounts of conversations that he heard from Senator Muskie. He leaves it to others, over time, to sift the evidence and refine the story.

After receiving the White House request, Senator Muskie submitted three names to the President: Frank Coffin, Sidney Wernick, and Alton Lessard. He advised the President that any one of the three would be an excellent choice, but his personal recommendation was Frank Coffin. He indicated that Frank would bring to the court a brilliant lawyer's knowledge and skills, a politician's breadth of experience and understanding of people, and an administrator's ability to manage. His appointment would bring great public credit to the President. He emphasized the importance of Coffin's leadership in Muskie's election as Governor and as Senator.

Word soon came back from the White House that President Johnson would never appoint Frank Coffin to the bench. Would the Senator please submit another name? Muskie responded by saying he had already given the President three names, each of whom was fully qualified. The President could make his own choice, but he (Senator Muskie) would not change his recommendation. Over the next several months several administration officials came to the Senator or called him. They floated other names, suggesting the Senator might want to pick one of them. Each time Muskie's answer was the same. He refused to add to or change the list.

Finally, the President's appointment secretary Marvin Watson called. According to the Senator, Watson opened the conversation about the appointment as follows: "Senator, this has been goin' on so long it's gettin' downright embarrassing. You know the President is never going to appoint Frank Coffin. Why don't you just give him another name?"

Muskie's reply: "Marvin, You guys keep telling me that, but the President never has."

Watson: "Well. I guess you and the President need to talk."

Muskie: "You name the time and place, Marvin."

Watson: "Okay."

Within a few days an appointment was set for Senator Muskie to go to the White House and meet the President. He thought he would have five minutes at the most to make his argument on Coffin's behalf. As was his habit, he wrote and rewrote his arguments, refining and paring them until he had three or four points to

make.

On the appointed day, Senator Muskie went to the White House and was ushered in to the Oval Office. As he reported the conversation on his return, the President launched into a lengthy complaint about his difficulties with members of the Senate with regard to the war in Vietnam and other issues. As the time approached the half-hour mark Muskie told the President he greatly appreciated the confidence he was expressing by talking about the issues he had covered, but they (Johnson and Muskie) had a judgeship to resolve. He made his few points. Johnson, who was seated in front of him, leaned over, tapped Muskie on the knee and said: "That's alright, Ed. You just hold my feet to the fire a little bit longer." The nomination was announced on September 3.

About a year after resolution of the appointment, the White House sent a package to Muskie's office. In it was a photograph of President Johnson and Senator Muskie. Johnson was seated in a rocking chair leaning toward Muskie, looking at him intently. Muskie was talking, gesturing with one hand. On the photograph the President had written: "To Ed Muskie, Reasoning Together, Lyndon B. Johnson." When Muskie saw the photograph he laughed and said, "That was the moment when I was making my pitch for Frank." He ordered a copy of the print with the LBJ inscription and wrote, "To Frank. This was the decisive moment[,]" and sent it to Coffin.

Frank Coffin's long journey through the world of politics had ended in a way he could not have anticipated, but in the way he deserved and would justify many times over by his life as a judge.