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MODEL CITIES, SENATOR MUSKIE AND CREATIVE
FEDERALISM

Donald E. Nicoll

MODEL CITIES, SENATOR MUSKIE AND CREATIVE FEDERALISM

*Donald E. Nicoll**

The odd couple partnership of Senator Edmund S. Muskie and President Lyndon B. Johnson in the passage of the Demonstration Cities and Metropolitan Development Act of 1966 is a story with several subplots and insights into their different approaches to the art of democratic governance.

For Senator Muskie, the President's proposal was based on valid concepts, but he doubted the legislation's viability in the Senate and he had serious reservations about its timeliness and capacity to address the problems the legislation was supposed to solve. The President was determined that the ambitious initiative, developed by a secret task force he had commissioned, should be enacted as designed, as part of the Great Society program and a response to the threats of disruption and conflict in the nation's largest cities. For Johnson, there was the challenge of an increasingly restive Congress, chafing under the increasing costs of Great Society initiatives. For Muskie there was the challenge of a legislative assignment quite different from the pattern he had established in his work as chairman of the Public Works Subcommittee on Air and Water Pollution. There were also matters of Muskie's and Johnson's political style differences and a less than happy start to their relationship.

When Ed Muskie was elected to the U.S. Senate in 1958, he paid a courtesy call on the majority leader, Senator Lyndon B. Johnson of Texas. As Senator Muskie wrote in his memoir *Journeys*, Johnson talked to him "for a while about the difficulty of adjusting as a senator, especially as a senator who had been a governor. He said that the tough times were when you had to vote, when you went on record. 'Many times, Ed.' He said, you won't know how you're going to vote until the clerk who's calling the roll gets to the M's."¹

After that advice, the majority leader went on to talk about pending rule changes. Johnson was pushing a change that would enable senators to end a filibuster with a two-thirds vote, something most of his southern colleagues could accept.² Muskie was much more attracted to a three-fifths vote to end debate, but said nothing.³

Johnson said, "[W]ell, Ed, you don't seem to have much to say."⁴ "Lyndon,"

* B.A. Colby College, and M.A. Pennsylvania State University, both in History and Government. His political and government career included: executive secretary, Maine Democratic Party (1954-1956); administrative assistant to Frank M. Coffin, MC, (D-Second Maine) (1957-1960); legislative assistant and news secretary (1961-1962), administrative assistant (1962-1971); and senior advisor (1971-1972) to Edmund S. Muskie, USS (D-Maine). He was subsequently chairman and CEO, Joint Operations Committee, New England Land Grant Universities (1973-1975); vice president for planning and public affairs, Maine Medical Center (1975-1986); and program and policy consultant with D&H Nicoll Associates (1986-2005). Now retired, he is a member and former chair of the Board of Visitors of the Edmund S. Muskie School of Public Service, University of Southern Maine.

1. EDMUND S. MUSKIE, *JOURNEYS* 8 (1972).

2. *Id.*

3. *Id.* at 8-9.

4. *Id.* at 9.

Muskie replied, “the clerk hasn’t gotten to the M’s yet.”⁵ Johnson was not happy with the reply. He was even less happy when Muskie voted for the tougher, three-fifths rule.⁶

The leader signaled his displeasure with Muskie by turning down all but one his committee assignment requests.⁷ The junior senator had asked to be appointed to Foreign Relations, Interstate and Foreign Commerce, and Judiciary committees.⁸ His fourth choice was the Banking and Currency Committee.⁹ Instead, Johnson consigned him to the Public Works Committee, chaired by Dennis Chavez of New Mexico, but dominated by Robert Kerr of Oklahoma; the Government Operations Committee, chaired by conservative John McClellan of Arkansas; and the Banking and Currency Committee, chaired by Willis Robertson of Virginia—Pat Robertson’s father.¹⁰ Muskie had been put in the shadows.

One of the marks of Senator Muskie’s extraordinary record is the way in which he made each of those assignments a platform for leadership on critical issues of the day. The area most often cited is that of environmental protection.¹¹ In addition, he became the acknowledged leader in budget reform, historic preservation, metropolitan planning, and Model Cities.¹² Ultimately, in the mid-1970s, he moved on to the Foreign Relations Committee, where his record led President Carter to name him Secretary of State in 1980, capping his career in public office.

How did Muskie and Johnson, originally edgy colleagues, come to a partnership on the Demonstration Cities and Metropolitan Development Act?

By the mid-1960s, Johnson, now President, had come to depend on Muskie on environmental legislation, where Muskie demonstrated his ability to build consensus across party lines, sometimes outdistancing the administration on issues where there was substantial opposition to environmental protection legislation. The Senator from Maine was also making a name for himself in urban and metropolitan planning, an outgrowth of his work on intergovernmental relations.¹³ Johnson needed that talent to rescue his Demonstration Cities and Metropolitan Development Act.

In October 1965, the President had commissioned an elite task force to work in secret to bring him a proposal that would target a few large cities that, with coordinated federal assistance, could demonstrate what could be done to revitalize slums and blighted areas.¹⁴ This would be achieved through expanded and improved public services to residents of those neighborhoods, and supplemented funds for existing federal urban assistance programs. The task force offered it as an answer to the turmoil and disarray of America’s great cities and a corrective of

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.* at 9, 18.

11. *See generally id.* at 79-95.

12. *See generally id.* at 14.

13. *See generally id.* at 16-17.

14. 112 CONG. REC. 20,063 (1966).

the perverse effects of existing urban legislation.

White House staff and the new Department of Housing and Urban Development (HUD) prepared legislation to implement the task force recommendations. On January 26, 1966, the President introduced the Demonstration Cities and Metropolitan Development Act in a message to Congress.¹⁵

The next day Senator Paul Douglas (D-IL) and Representative Wright Patman (D-TX) introduced the legislation.¹⁶ The program cost for six years was estimated at \$12 million in grants for planning and \$2.3 billion for projects.¹⁷ Projects would be placed in sixty-six cities selected on the basis of competitive applications.

There were fifteen co-sponsors in the Senate, Senator Muskie among them. The congressional response was underwhelming. The bill was not a product of congressional deliberations. Rural, suburban, and conservative members of the House and Senate were not eager to put more federal resources into the cities, and a number of the members of both houses were put off by the "demonstration" label in a period of growing civil rights and anti-Vietnam war protests.¹⁸ On the other side of the coin, advocates for the cities felt it was not enough.

By the end of May, the legislation seemed headed for defeat in the House committee. On June 1, the Administration convinced House leaders to put off action on the legislation, while Administration officials decided what to do.¹⁹

They needed to shift the focus to the Senate, but neither Housing subcommittee chairman John Sparkman of Alabama, nor the Senate sponsor of the legislation, Paul Douglas of Illinois, was willing to take the lead. Both were up for election. Neither felt he could be a champion of "Demonstration Cities."

The administration turned to Senator Muskie, a co-sponsor of the legislation and a member of the housing subcommittee. Undersecretary of Housing Robert Wood and Assistant Secretary Charles Haar met with the Senator and asked him to take on the task of managing the bill in the Senate. Secretary Haar followed-up with a lengthy June 7 memorandum.²⁰ The Senator was non-committal.

On June 10, Administration officials working on passage of the legislation met at the White House. The news was gloomy and the mood dispirited. Several participants wanted to throw in the towel. The conversation was increasingly negative. At that point, Postmaster General Lawrence O'Brien rose and in an impromptu and impassioned speech, berated his colleagues for their pessimism and called on them to get on with the business of getting the legislation enacted. The group, aroused by O'Brien's challenge, decided to push ahead. The President agreed.

The President's allies ramped up the pressure. He was lobbied heavily, with direct calls and visits from the Administration and letters from the U.S. Conference

15. The Demonstration Cities and Metropolitan Development Act of 1966, H.R. 368, 89th Cong. (2nd Sess. 1966).

16. 112 CONG. REC. 20,045 (1966).

17. *Id.*

18. *Id.* at 20,034.

19. *Id.* at 20,030.

20. Bates College, Edmund S. Muskie Archives and Special Collections, Muskie Collection, Box 347, Folder 3.

of Mayors, the National League of Cities, and others—all urging the Senator from Maine to save Demonstration Cities.

On June 16, White House Senate liaison Mike Manatos called the Muskie office to discuss air and water pollution legislation. He mentioned that he had discussed Demonstration Cities with the President and suggested that the Senator meet with the President. The Senator decided instead to send a letter to the President to explain the concerns he had been discussing with his staff. The letter was finished and sent to the President that day. His message was direct:

I am in sympathy with the objectives you have outlined in your message to Congress and with the intent of the legislation. But, quite frankly, at this point I am not prepared to accept the assignment if it involves battling for the bill as sent up by the Department.²¹

He critiqued the bill as possibly distorting the application of federal, state, and local cooperative community development programs, open to attack by Republicans as a “back door” attempt to give cities block grants for “new, unidentified, ongoing programs,” and based on a “debatable assumption that one department can require cooperation and assistance from other departments and agencies.”²²

He was pessimistic about the prospects for enactment and feared the bill opened “the Administration to ‘spending’ attacks, without the corresponding benefits of immediate and observable impact. Indeed, the fact that the legislation would not really affect our crisis cities this summer is one of its chief weaknesses as a major congressional issue.”²³ He stressed his agreement with the President’s objectives, but said he did not want to see those “objectives set back by an untimely fight on legislation” that would not serve the President’s purposes.²⁴

Muskie proposed a compromise to launch the President’s “long-range program coupled with an imaginative interdepartmental campaign for improved Federal assistance under existing programs in about twenty-five crisis cities” that summer, carried out under White House leadership.²⁵ He concluded the letter with an open door: “I hope we will have an opportunity to work this out. I do not think we have to accept the alternative of a bitter and, perhaps, futile fight or retreat from the field.”²⁶

The immediate consequence of the letter was a series of exchanges between the President’s domestic policy special assistant Joseph Califano and me, as the Senator’s administrative assistant, in which the Muskie proposal was explored.²⁷ The White House said the President would not abandon the legislation. Short-term fixes were not an option. Muskie responded: he would agree to manage the legislation if he could satisfy himself on two points: (1) he and HUD and the White House could agree on a revised draft that corrected the problems he found in the

21. Muskie Archives, Box 348, Folder 1.

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.*

27. Donald Nicoll to Joseph Califano, June 29, 1966, Muskie Archives, Box 348. Folder 1.

first draft; and (2) he could be assured that at the end of the day he could gain a respectable vote in the Senate. He did not expect a guarantee of victory, but he did not want to be on the short end of a 98-2 vote. The White House and HUD agreed.

The next stage involved a flurry of legislative analyses prepared by the Muskie staff and the director of the Government Operations Subcommittee on Intergovernmental Relations, coupled with negotiations with Presidential assistant Califano, HUD officials and Bureau of the Budget staff member Philip Hannah. The result was an agreement in principle on the changes that were to be made.

On July 5, during the Fourth of July holiday, while Senator Muskie was at his Kennebunk home, a small delegation of White House and HUD staff, accompanied by the Senator's aide, flew to Maine and over lobster stew hammered out a general agreement on the issues that still needed to be resolved. The Senator agreed to take on the assignment.

Thus, Senator Muskie became the manager of the legislation in the Senate. It was a very different challenge from the work he had been doing since 1963 as chairman of the Senate Public Works Subcommittee on Air and Water Pollution. In that subcommittee, he set the agenda and built a record of successive acts that improved and expanded a range of antipollution programs. By comparison, with Demonstration Cities, Muskie was asked to take on a demanding president's creation—one with which he had reservations—and somehow shepherd it through a reluctant Senate and achieve agreement with a recalcitrant House.

The next couple of weeks were devoted to polishing the legislative draft, always under the Senator's exacting guidance. Language was tightened, problem items were deleted, and several programs were added. Some of the changes from the original bill were aimed at shoring up support or blunting opposition. They included making city selection criteria more general and softening the language on desegregation.

Senator Muskie also added language to strengthen metropolitan planning and review, emphasize local initiative, and ensure citizen participation.²⁸ He incorporated his historic preservation legislation as Title VI.²⁹ Ironically, Muskie is less visible as the champion of historic preservation because he was successful in getting it enacted as part of Demonstration Cities rather than as separate legislation.

By July 23, the package was ready to take to the Senate Housing Subcommittee. Muskie staff distributed a cover letter and a two-page memorandum on the substitute legislation to Democratic members of the subcommittee. Senator Muskie was in Maine on that date. His aide sent him a copy of the letter and the memorandum with a short cover note, in which he reported that he had talked with Bob Wood and Joe Califano, and they had agreed that the Administration could accept an amendment to the Muskie Substitute³⁰ that Muskie and his staff had prepared to cut the authorization for the legislation from \$2.7 billion to a total of \$900 million for just two years. It did not reduce the annual authorization.

28. See Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. No. 89-754, 80 Stat. 1255 (1966).

29. *Id.* at 1278-79.

30. A "substitute bill" reported out of a committee or subcommittee is a substantially different version of the original legislation, but with the same title and senate number.

The Senator's letter and the summary description of the bill stressed his view that the substitute bill would achieve the President's objectives and carry out his wishes, but contained a number of improvements.³¹

On July 23, the committee met to mark up the bill. Proponents were still scrambling for votes. One uncertain member was Senator Thomas McIntyre of New Hampshire, who was under attack by the Union Leader as a "tax and spend" Democrat. At the committee session, Senator Muskie had in his pocket the amendment to cut the size of the spending authorization. On the spur of the moment, a decision was made to offer Senator McIntyre the amendment. The amendment was handed to Senator McIntyre with his name written in. He read it, smiled, raised his hand, and offered the amendment, which passed unanimously. He voted with the majority for the legislation.

The bill went to the floor with substantial Banking and Currency Committee support. On August 19, Senator Muskie opened debate with an eloquent statement and responded to questions and comments by his colleagues.³² Senator Tower offered an amendment that would have converted the legislation into a study.³³ It was defeated 27-53.³⁴ The final vote on passage was 53-22, a resounding victory for what had been written off as a lost cause.³⁵ Muskie's eloquent opening speech and his comments in debate were credited by a number of observers, in and out of the Senate, with swaying a number of votes that day.³⁶

The remaining legislative steps seemed almost anticlimax. The house passed an amended version of the Muskie bill: there was a conference, the conference report was adopted, and the President signed it with a flourish.³⁷

The final product retained the essentials of the Administration's proposal. The President signed Model Cities (as Johnson now called it) and the Muskie Clean Water Restoration Act of 1966³⁸ on November 3, thirteen months after he commissioned his task force and four months after Senator Muskie and the administration agreed on the basic provisions of what became known as the Muskie Substitute.³⁹

Model Cities, as implemented—which was ultimately undercut and dismantled by the Nixon Administration—had mixed results. It did not transform the larger cities, nor did it preclude urban unrest and conflict as a consequence of racial discrimination and poverty. But it did succeed in strengthening a number of communities and demonstrating the values of imaginative local leadership and meaningful citizen participation in governance, particularly in smaller cities, like

31. Muskie Archives, Box 348, Folder 1.

32. 112 CONG. REC. 20,026 (1966).

33. *Id.*

34. *Id.* at 20,051.

35. *Id.* at 20,070.

36. *See id.* at 20,074.

37. Robert B. Semple, Jr., *Signing of Model Cities Bill Ends Long Struggle to Keep It Alive*, N.Y. TIMES, Nov. 4, 1966 at 44.

38. Clean Water Restoration Act of 1966, Pub. L. No. 89-753, 80 Stat. 1246 (1966).

39. CHARLES MONROE HAAR, BETWEEN THE IDEA AND THE REALITY: A STUDY IN THE ORIGIN, FATE AND LEGACY OF THE MODEL CITIES PROGRAM 73, 82, 89 (1975).

Portland, Maine.⁴⁰

One of the modifications Muskie and the Johnson Administration had drafted in the revised legislation was an expansion of the program to cover smaller cities than those targeted by the Johnson Administration. The Senator and his staff regarded Portland as a likely beneficiary of the program. They knew Portland had the need, the talent, the leadership, and the sense of community to achieve the goals of the legislation.

Portland's administration had already made a commitment to meaningful citizen involvement in redevelopment; a vigorous historic preservation movement was underway. The city council membership had shifted from a narrow base of the city's elite to a robust, non-partisan, grass-roots leadership. The city retained engaged and civic-minded leaders in the business community, and the city was attracting bright young civil servants to key positions in the government. From the nationally recognized and applauded application for funding, to the professional and politically sensitive management of the program, along with the involvement of citizens from all strata of the community, Portland created a truly "Model City."

As an experimental program, Model Cities in Portland had pluses and minuses for the program and process. On balance, it was a substantial plus.⁴¹ The success of that program is being felt in the city even today. The Model Cities neighborhoods are thriving and diverse. The neighborhood organizations are still a force within the Model Cities area and an influence on the metropolitan region. Throughout the city and in other Maine communities there are respected civil servants, non-profit agency directors, and successful business leaders who got their start in the Portland Model Cities program. School programs developed under the aegis of Model Cities are centers of learning for the children of immigrants from Africa, Southeast Asia, Eastern Europe, and the former Soviet Union. Indeed, much of Portland's success in welcoming and integrating diverse immigrant groups is traceable to the philosophy and practices of the Model Cities program.

The Portland project was a source of satisfaction for Senator Muskie, and a validation for him of the way in which the federal system was intended to work: using its explicit and implicit checks and balances to share national resources and benefit from local applications on behalf of the community.

That was the heart of Muskie's approach to urban and metropolitan planning, environmental protection, conservation, and intergovernmental relations: that the initiatives should be developed both separately and in concert. He was ahead of his time, but he knew how to persuade his colleagues to move in that direction. He also knew it was a work in progress, which would continue to evolve and would never be complete.

Why Muskie? Why a senator of a rural state as the leader on legislation of

40. There are two studies about the Model Cities Program with detailed information on the origins, enactment, implementation, and assessments of the program. *See generally* CHARLES MONROE HAAR, BETWEEN THE IDEA AND THE REALITY: A STUDY IN THE ORIGIN, FATE AND LEGACY OF THE MODEL CITIES PROGRAM (Little, Brown, 1975); BERNARD FRIEDEN & MARSHALL KAPLAN, THE POLITICS OF NEGLECT: URBAN AID FROM MODEL CITIES TO REVENUE SHARING (1975).

41. *See generally* PORTLAND, ME. MODEL CITIES PROGRAM, IMPROVING THE QUALITY OF LIFE IN PORTLAND, MAINE: THE FINAL EVALUATION REPORT OF THE PORTLAND, MAINE MODEL CITIES PROGRAM (1975) (an in-depth evaluation of the Portland Model Cities program).

primary concern to those with urban problems? The simple answer is that Muskie had the talent, the skills, and the stature to command respect and sway the Senate on any issue in which he believed. He understood that small cities as well as large had serious problems and needed help. He believed urban planning needed to be undertaken in the context of metropolitan planning. He understood the importance of historic preservation to the integrity of a community.

Muskie had, from his years as governor, seen urban issues as community and neighborhood issues, closely linked to the well-being of middle and lower-income citizens and their sense of security and control over their lives. During his senate service he mastered much of the basic information and range of thought on urban and regional issues. And he was convinced, above all, that effective planning in a community could only succeed with the active participation of the members of the community, whatever their social, ethnic, or economic status.

Muskie saw in the Demonstration Cities and Metropolitan Development Act proposal a potential contribution to urban life consistent with his values. In spite of his initial reservations, and in spite of the congressional odds against the legislation, Muskie and the Johnson Administration resolved their differences, and he used his position on the Banking and Currency Committee as a platform for making a persuasive case with his colleagues. President Johnson's victory was the unintended consequence of the majority leader's displeasure.

