

Maine's Paradoxical Politics

by Kenneth Palmer



Kenneth Palmer's article, based on his 2009 University of Maine College of Liberal Arts and Sciences Maine Heritage Lecture, discusses the paradoxes of Maine's politics that often draw national attention. He notes how these paradoxes have contributed to the state's having a "creative and effective political system." Maine politics are dynamic in nature, with parties loosely hung together, governors winning by pluralities rather than majorities, and significant turnover both in members and parties in legislative districts. Palmer suggests that Maine's political leaders find themselves as centrists, primarily because they want to find practical solutions to difficult problems. 

As Election Day 2009 neared some of us who teach American government were approached by persons in the national media asking us about various aspects of Maine politics. Their questions concerned national health care reform and the role of our two U.S. senators in that debate. On reflection, though, questions about Maine politics from people outside of Maine are really fairly common. The state presents a puzzle. That is especially true for people who try to understand Maine from the perspective of regarding a state as a sort of microcosm of the national picture. That kind of thinking is not a good place to start in understanding Maine. Maine politics is, in fact, special and different.

Our state's distinctiveness has been known for most of its history. In his work entitled *Inside U.S.A.*, written in the 1940s, John Gunther wrote that Maine's "chief distinction is...not size but character." Among its particular qualities, Gunther identified one as "intrepidity"—a quality related to "the way people make their living by combat with the elements" (Gunther 1947: 485). Other special characteristics were "simplicity, financial integrity, humor," and a strong sense of "state pride." Gunther's appraisal has been echoed in subsequent years and in many other sources. The current edition of *The Almanac of American Politics*, for instance, identifies Maine as "a state with a distinctive personality;" it uses adjectives such as "ornery, contrary minded and rough-hewn" to describe our citizens (Barone and Cohen 2009: 673).

Such broad-brush labeling—while colorful—doesn't add much insight in understanding Maine's politics. To go further, I believe we need to notice the state's political culture and the demographic features that reinforce that culture. This article will try to sketch those patterns and look at the political process that flows from them. The paradoxes of our politics, the eccentricities that sometimes draw national attention, do fit together in some critical ways, and have helped to make Maine a creative and effective political system.

Maine's political culture—by the term culture I mean the attitudes and expectations that citizens bring to government—has been called the moralistic or participatory culture. This comes from the work of Daniel Elazar (1984) whose path-breaking book *American Federalism: A View from the States* has shaped the thinking of many of us who study state

politics. The moralistic culture stresses the importance of community and the obligation of citizens to take part in its governance. Traditionally, much of New England has shared in the moralistic culture. Its oldest and perhaps best institutional expression is the New England town meeting, an arrangement where the citizens come together to decide on their town's goals and how to attain them. In the 1830s, Alexis DeTocqueville, in his classic study *Democracy in America*, gave particular attention to the town meeting, which he much admired. "It is in the township," DeTocqueville wrote, "that the desire for esteem and the taste for power are concentrated; these passions—so often troublesome elements in society—take on a different character when exercised so close to home. With much care and skill power has been broken into fragments in the township, so that the maximum possible number of people have some concern with public affairs" (DeTocqueville 2000: 35).

Maine's devotion to this participatory culture has influenced our politics in several respects. For one thing, it has engendered a high level of citizen engagement. The state regularly ranks among the top tier of states in voter turnout in national elections, a habit that makes Maine an exception to many other high-turnout states, where voting behavior is linked to above-average levels of income and education in the population, characteristics less common in Maine. Another evidence of the participatory culture is the unusual strength and power of our state legislature. When Maine's constitution-writers created certain executive offices such as treasurer and secretary of state, they assigned the legislature, not the governor, to name those officials. Later the attorney general would join the list. Maine is the only state with such an arrangement.

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in New England, but also across most of the northern part of the United States where New Englanders migrated. That view is relevant because Maine, while a New England state, bears some similarity to western states in the way it was settled. Ours was a frontier state in the early 19th century, a large area populated in rapid fashion, although the movement here was eastward from the south and west. From 1800 to 1860, the population increased fourfold, from about 150,000 to more than 600,000.

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That frontier quality seemed to intensify the communitarian culture. Maine's Constitution of 1819 was even more democratic than the Massachusetts Constitution, under which we had been governed as a District. Property and religious requirements for voting, present in the Massachusetts charter, were mostly abolished in the Maine Constitution. Like some western states, Maine has long shown a willingness to modify government arrangements and processes, usually to make them more accountable to its citizens. Popular lawmaking, in the form of the initiative and the referendum, begun in South Dakota in 1898, and adopted in Maine in 1911, has been one such means. Maine has used the device more than 40 times since 1970. The 15 states that currently place limits on the terms of their state legislators, including Maine, have generally done so through a referendum. Maine adopted term limits early in the process, in 1993. Significantly, it is the only northeastern state presently to do so.

Our habit of molding governmental structure to citizen needs is also seen in the wide use of professionally trained town and city managers for our localities. Most other states using the council/manager model employ it for towns of more than 10,000 people. Because Maine has relatively few such localities, our communities have modified the system such that a professional manager often works with a town meeting or a board of selectmen, not necessarily an elected council.

Another factor that strengthens the moralistic culture is the spread-out nature of our population, which is scattered among nearly 500 communities in the state. Maine's six largest towns and cities account for only about 20 percent of the state's population. Research on state politics generally indicates that residents living in small towns show greater attention to the workings of state government than do residents of big cities. Urban residents sometimes find the affairs of the state government obscured by the activities of their city. A focus on the state government is important—it is a key element providing a shared sense of political involvement among communities, even when the distance between individual towns is large and travel often difficult.

How do these cultural characteristics affect our politics? The general answer is that they help keep politics dynamic and close to home. Candidates for public office must campaign diligently and thoroughly across the state, visiting as many towns as possible and meeting as many people individually as possible. That is as true for statewide candidates running for governor or national office as it is for candidates for local and state legislative offices. In his book *This Splendid Game: Maine Campaigns and Elections, 1940–2002*, Christian Potholm quotes an observer of Edmund Muskie's 1954 gubernatorial campaign describing Muskie as a candidate who acted "as if he were running for selectman," that is, carefully working his way through each town and each neighborhood (Potholm 2003: 51). That localism infuses our politics regularly, whatever the campaign season, the offices sought, or the issues of greatest concern in that election.

The stress on grassroots campaigning has contributed to Maine having a large number of independent voters, and undoubtedly, to our being the only state to

have elected two independent governors in the past 35 years. The link between campaign style and political independence is likely found in our candidate-oriented elections. The focus is on the personal qualifications, the capability of the candidate, less on the candidate's party and party allegiances. Party loyalties still count in some districts, but their impact is generally less here than in most other states. The Maine Clean Elections Act of 1996, which enables legislative candidates to gain certain public financing, has contributed toward a loosening of ties between candidates and parties. However, an independent streak in Maine politics was evident long before that Act was approved. In fact, I would argue a strain of independence began in campaigns even when we were a solidly Republican stronghold.

In 1948 Margaret Chase Smith successfully challenged two opponents in the Republican primary for the nomination for U.S. Senator—one an incumbent governor and the other a former governor. She emphasized that as a sitting member of Congress, she had qualifications deeper than theirs. Although both her opponents had won statewide elections, neither had served in Congress. In contrast, she had represented Maine's 2nd congressional district for eight years. In 1954, Neil Bishop, a veteran Republican politician, headed a group called Republicans for Muskie, and contributed to Muskie's election to the governorship in that year, which is often cited as the beginning of a two-party system in Maine. Muskie undoubtedly helped to place the Democratic Party in a competitive posture with Republicans. Eight years after he left office, Maine elected another Democrat, Kenneth Curtis, to the governorship. Curtis served two terms from 1967 to 1975. Four years later, Maine again elected a Democrat, Joseph Brennan, to the governorship, who also served for two terms, from 1979 to 1987.

Still, it is worth noticing that the emergence of independent candidates in gubernatorial races began at about the same time Democrats began seriously contesting statewide elections. The effect of the presence of independents has been to make it difficult for either party to marshal an electoral majority behind its gubernatorial candidate. In the 10 elections we have held since 1970, the winning candidate for governor obtained a majority of the vote on only three occasions.

In just two instances was the winner a candidate running on a party label. Curtis won with just over 50 percent in 1970. The other two majority elections were landslides for incumbent governors running for re-election: Brennan in 1982 and Independent Angus King in 1998. In the other seven contests, at least three serious candidates competed in the race, and the winner obtained less than 50 percent of the vote. Looking toward 2010, about 20 candidates have so far entered the field to succeed Governor Baldacci, making it very likely the record of plurality winners will continue.

What about the legislature? Interestingly, the legislature has had relatively few independents or minor party candidates, in contrast to the influence independents have had in gubernatorial races. In the 2008 elections, eight independent candidates competed for office, and one was elected.

In a broader sense, though, the fluid, fragmented voting that marks contests for governor seems also present in legislative races. Those elections are highly contested, rather remarkably so. In 2008 every senatorial district had at last two candidates. In the Maine House, 136 seats, amounting to 90 percent of the chamber, were contested. (This is a slightly higher rate of competition than is true nationally for U.S. House districts.) Moreover, many of those campaigns are hard fought. In 40 percent of the races for seats in the state senate in 2008, the winner obtained no more than about 55 percent of the vote. All this takes place even though term limits restrict legislators to four consecutive terms in one chamber. But Maine voters are not willing to wait until the incumbent legislator is termed out. Choices are offered in each election in nearly all districts. Additionally, party turnover in legislative districts is fairly common. In the two election cycles following the 2004 election, about one-third of the House districts switched parties, that is, they elected a member of the other party in 2006 or 2008.

The upshot is that state politics in Maine is unusually dynamic, with parties that are loosely hung together, with governors who win by pluralities, not majorities, with legislatures that are marked by much turnover among members and significant turnover among the parties in individual districts. All of this facilitates a certain degree of bipartisanship, of coalition-building on major legislation. Party lines are surely

visible in Augusta. Since 1991, however, when a partisan gridlock in that year caused the state government to grind to a halt for three weeks—leaving Maine without a state budget and fueling a successful drive for legislative term limits—we have generally been able to work around party divisions.

If we step back in time, this pattern seems somewhat to resemble the way parties in the U.S. Congress operated about 50 years ago. At that time, each of the two congressional parties was really a mosaic of 50 state parties. Each state party had its own policy preferences and political styles, and the members of Congress from each state reflected those nuances. Cross-party coalitions in the U.S. Congress were fairly common. Indeed they were often essential for the enactment of major bills. Such national measures as civil rights bills in the 1950s and 1960s, and revenue sharing and the first environmental measures in the 1970s, were products of congressional coalitions, not party-line votes.

What has happened since that time is that the two parties have shifted from being primarily state-based organizations—which they were for most of our history—to ones much more centralized in Washington. We now have national parties. National party committees and congressional campaign committees play pivotal roles in fundraising for congressional races; national interest groups occupy a more critical place in congressional campaigns. Most important, in many states once powerful local parties have eroded, and have little independent impact on congressional elections. All this has led the parties in Congress to have greater unity—and to be more polarized along ideological lines—than in the past. Maine has experienced less of that trend. Our parties largely remain tied closely to Maine's political culture, with its emphasis on the personal qualifications of candidates and general resistance to outside pressures and money in the conduct of state campaigns. The state seems to stand out because—while the national policymaking process has changed markedly from a half century ago—Maine politics has largely retained its basic characteristics.

So how does this special political process of ours play out in Washington? The state's greatest impact is, of course, found in the Congress. In some respects, our congressional delegation does not at all reflect the

changeable and unpredictable politics just described. First of all, the Maine delegation is composed, as in the past, of politicians who run and win on political party labels. Independent candidates play at most a minor role in congressional campaigns. Second, Maine members of Congress tend to serve for long periods of time. The state has not defeated an incumbent U.S. senator since 1978 and has defeated only two House members running for reelection in the past 35 years: in 1974 and 1996. It is almost as if Mainers say that while we can afford to be unpredictable and even chaotic in campaigns for choosing state officials—when it comes to Washington we need politically to dress a little more formally, to emphasize the importance of experience in working on the national stage. It is common for observers to categorize Maine, in ideological terms, as politically moderate. It is true that we usually operate in the middle of the political spectrum. However, a better description may be that our political leaders are non-ideological. They find themselves in the center, not out of a desire to seek political balance, but primarily from a concern with finding practical solutions to difficult problems. That is true throughout our system, I would argue, whether we are speaking of local officials, state legislators, or United States senators.

Turning to the executive branch, we confront the curious problem of Maine's ability or—perhaps more accurately said—inability to be an accurate predictor of presidential elections. Maine won a reputation for being a reliable state in that regard early in our national history, specifically, in the election of 1840. The state voted in September in those years, and in that year Maine supported the Whig ticket in the state election, defying the general expectation that 1840 would be a Democratic year. In November, Whig candidate William Henry Harrison won the presidency and Maine's reputation was established, or seemed so (Robinson 1932). Consistently Republican after the Civil War, Maine's voting habits usually corresponded with those of the nation until the beginning of the New Deal, when our record headed downhill. After rejecting Franklin Roosevelt in four presidential elections, we managed in most subsequent close elections to wind up on the losing side—favoring Tom Dewey in 1948, Richard Nixon in 1960, Hubert Humphrey in 1968, Jerry Ford in 1976, Al Gore in

2000 and John Kerry in 2004—the only state with such a low batting average. We should have stopped with William Henry Harrison.

Despite that record, and our limited experience in offering presidential candidates, presidents have looked to Maine for help in their administrations. That is especially true when they have sought individuals who can work on a bipartisan basis. Examples are former Senator Bill Cohen's service as Secretary of Defense in the Clinton administration, former Senator George Mitchell's current appointment as Middle East envoy and former governors John Reed and Kenneth Curtis as U.S. ambassadors to Canada and Sri Lanka, respectively.

In looking at Maine politics in Washington we need also to consider the relationship between the Maine Supreme Judicial Court and the U.S. Supreme Court. For many years the nation's highest court did not hand down a full opinion concerning any case that had gone through our courts. Since 1980, however, the high court has settled nine cases from the Maine Supreme Judicial Court. Three concerned civil liberty issues that involved the U.S. Constitution's Bill of Rights. The others dealt with the interpretation of federal laws affecting activities in Maine. Among the cases that tested the meaning of federal rules were *Fort Halifax Packing Co. v. Coyne* (7107 U.S. 2211 [1987]), which involved the federal Employment Retirement Income Security Act of 1974 and *Alden v. Maine* (8119 U.S. 2240 [1999]), which asked whether the 11th Amendment to the Constitution prohibited state employees from using a state court to sue the state government over the application of the federal Fair Labor Standards Act of 1938 concerning employee wages. Both cases were extremely controversial. The U.S. Supreme Court—in a vote of five to four—affirmed, in each case, the decision of the Maine Supreme Judicial Court.

There is impressive evidence that Maine's top court may be evolving as a leader among state supreme courts. Most of the nine cases successfully appealed to the U.S. Supreme Court did not involve specifically Maine issues. Because they concerned the interpretation of federal laws or federal constitutional provisions, they could have come from any state. A large portion of the cases the U.S. Supreme Court reviews from state courts involves some form of state resistance to

federal law or policy. Accordingly, the high Court reverses the outcome in about two-thirds of the state court decisions it considers. That appears not to be happening in Maine. In the nine cases reviewed since 1980, Maine was upheld in five of them. Those cases generally concerned national issues, not state questions. Maine happened to be the locale where the issues were joined. When the U.S. Supreme Court affirmed the state's rulings, the effect was to translate the conclusions of the Maine Supreme Judicial Court into national policy.

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Finally, I would like to look at how our political culture and politics shape the making of policy in our state and local governments. At the outset, a word needs to be said about the federal system. I refer especially to the changes that have taken place in federal-state relations in the past few decades. Until about the mid-1970s, federal-state relations were often described with the phrase "cooperative federalism." The federal government provided grants-in-aid to the states, enabling them carry out a broad array of policies. A good example was highway building. The state worked under national guidelines, but had some discretion in deciding on specific activities. The two political parties differed over the amount of control the federal government should have over the states. In presidential campaigns, intense debates took place over "the proper role of the federal government." Democrats generally favored expansive national power. In contrast, Republicans urged that certain programs be lodged with the states with minimal federal interference.

Those debates no longer occur. In 2008, for instance, there was almost no discussion of federalism

issues. The main reason is that both parties now largely agree on the federal government's place in setting the national policy agenda. A leading illustration was the administration of George Bush. A conservative Republican, President Bush pressed for a national social and economic agenda that paid little attention to the states. That posture differed sharply from the one embraced by Republican presidents Dwight Eisenhower in the 1950s and Richard Nixon in the early 1970s. One of the most important defenders of the states in those years was the business community, which preferred state regulation over national regulation. Currently, however, big business tends to side with the federal government, not the states, in the writing of regulations. Its allies in the Republican Party do so also. The same forces that have led to stronger national parties have also tilted the balance of federalism toward the national government in designing public policy.¹

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In place of cooperative federalism, the present arrangement is sometimes styled "coercive federalism." Its main components are federal mandates and federal statutes that affect most areas in which the states work. Language equipping the federal government to enter into the activities of state government is found in most national domestic policies. For instance, in the American Recovery and Reinvestment Act of 2009 (the stimulus bill), there is a provision stipulating that if a governor refuses to accept stimulus funds, the state legislature may do so anyway, despite the governor's preference. In doing so, the Act overrides, in some states, established norms and constitutional rules.

How do the states operate with the federal government looking on so closely at what they are doing? A frequent practice is for state officials to seek adjustments, waivers, and exceptions from federal laws.

Our present intergovernmental structure impels ongoing negotiations between state and federal officials. In that work, a state's members of Congress often serve as intermediaries. One example involves truck weights on Maine's interstate highway system. Years ago, Maine and all other states could on their own set the maximum weight of truck cargoes passing through their jurisdictions. In the 1990s, however, Congress entered that field. It established a national standard of 80,000 pounds as the maximum allowable weight on interstate highways supported by the federal gas tax. It enforced its rule by using a device called crossover sanctions. Congress said states not in compliance would lose a portion of their share of the federal gas tax. However, if the weight limit hurts a particular state's economy, its congressional delegation may try to insert an exception into the legislation Congress periodically enacts to transfer money to states from the federal highway trust fund. When truck limits were first enacted, trucks passing into Maine were allowed to carry as much as 100,000 pounds on the turnpike from Kittery to Augusta. However, the exception applied to that stretch of road only. After many years of effort, our congressional delegation was able to extend the exception to the other 300 miles of Maine roads that are part of the interstate highway system under a one-year pilot program Congress enacted in December 2009.

The federal government's intrusion into state affairs in no way diminishes the states as the workhorses of U.S. domestic policy. Most domestic policies are implemented through state bureaucracies. The federal presence would be more overwhelming without the participation of the states, which currently raise and spend more than half a trillion dollars on their own. Compared to the federal government, all states share, in varying degrees, one important advantage: they govern smaller populations, and those populations are generally more homogeneous than the nation as a whole. The federal government's policy gridlock on key issues is in part a consequence of its much greater complexity and the multiplicity of decision-making points. In contrast, the states can sometimes move rather swiftly and coherently in addressing public problems. It was to this quality that U.S. Supreme Court Justice Louis Brandeis referred when he stated in *New*

State Ice Co. v. Liebmann (52 U.S. 271 [1932]): “It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory and try novel social and economic experiments without risk to the rest of the country.”

Maine’s civic engagement has followed Justice Brandeis’s hope. We have been a policy innovator. Importantly, when major shifts in policy were needed, the state has come together to carve out a new direction. In 1957 the state enacted the Sinclair Act, which revolutionized Maine’s schools. Consolidating what had been hundreds of small school districts, the Act created school administrative districts large enough to ensure that students desiring to go to college would have curricula broad enough to provide sufficient courses toward that goal. Many of our environmental statutes date to a rather compressed time period, the years from 1969 to 1971. The pulp and paper industry—a huge conservative force in state politics—recognized that broad support existed for change in environmental regulation and did not seriously contest the measures. In 1969, faced with the need for new revenues for the surging number of students entering Maine’s higher education system, the legislature enacted a state income tax with bipartisan support. Earlier in this decade, Governor Baldacci set the state on a new course to provide health care for our citizens and won support for that program in the first year of his administration.

In addition to generating widespread support, those shifts reveal two other important characteristics about Maine’s public policy. One is comprehensiveness. We generally try to bring as many citizens as possible under the tent of a particular program or policy. In designing new programs, we urgently seek to ensure that policies do not have a “silo” effect of including some people and excluding others. New programs—whether ones dealing with economic development, the environment, social services, or other issues—endeavor to reach into every nook and cranny of the state. We do not like to trade in one program so that another can go forward. A leading example is seen in environmental policies. Mainers consistently reject the notion that jobs can or should be created at the expense of protecting the state’s natural environment.

A second characteristic of our policymaking is the rapid growth in the professionalization of our

government workforce. Recall that the moralistic or participatory political culture stresses citizen involvement in government. Citizens not only participate in electing officials; they often have served as the officials, especially in local governments. But the demands of more complex policies require technical expertise, that is, people trained specifically for certain posts and paid accordingly. In recent years, the increase in professional employees has been especially apparent among Maine’s local governments. That is in large part the case because we have so many local governments. The number of full-time salaried employees in our municipalities per 10,000 population has more than doubled since 1960. Maine has been one of the fastest growing states in the country in adding such workers, as positions once held by citizen volunteers and part-time employees now become full-time, paid professional posts.

These last two features of Maine’s policymaking activities—comprehensiveness in approach and a growing political class—have an important quality in common: they both cost a lot of money. Our state’s expanded governmental sector is illustrated in a statistic concerning the state’s gross domestic product (GDP), the value of all products and services in the state. The portion that Maine’s governmental expenditures constitutes of its GDP moved from about eight percent in 1960 to about 13 percent in 2000. The rise has helped fuel in the last few years the numerous referendum issues that have addressed, in particular, local government finances and local governmental structure.

We may end by asking: How well will Maine resolve the tensions inherent in its policy style and in its governing arrangements? Can it reach solutions without damaging its special and admired political culture? We do not know the answers to these puzzles. Two factors, however, give us some confidence about the future. One is our practical, moderate-oriented political style, one that insists that finding acceptable solutions to problems should trump adherence to ideology. The second advantage is that we are willing to experiment, to improvise, to innovate, and to find particular—even unusual—solutions to public problems that no one else may have thought of, but which seem to work for our citizens. That, indeed, is Maine’s tradition. I believe it will continue to be our strength. 🐟

ACKNOWLEDGMENTS

This article is an edited version of the University of Maine College of Liberal Arts and Sciences Maine Heritage Lecture delivered November 5, 2009.

ENDNOTE

1. An excellent discussion of these trends is Conlan, Timothy J. and Paul L. Posner, eds. 2008. *Intergovernmental Management for the 21st Century*. Brookings Institution Press, Washington, DC.

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