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A LOOK BACK AT MAINE POLITICS IN 2023

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If one only looks at partisan elections, 2023 would seem to have been a much quieter year for politics in Maine than 2022 was. But both at the polling place and outside of it, 2023 still had much of interest to offer political observers. This article will focus on three key areas of debate and action in Maine politics in 2023: abortion, tribal sovereignty and electrical power; the aftermath of the mass shooting in Lewiston; and statewide elections, both past and future.

Abortion

Academics have given extensive attention to American state abortion policy since the *Dobbs v. Jackson Women's Health Organization* decision in 2022 overturned *Roe v. Wade* after nearly 40 years as precedent, and allowed states to impose greater restriction on abortion (see, for example, Mayer et. al. 2023; Salehin and Pillai 2023; Skidmore 2023). Most of this attention has focused on increased state restrictions, but Maine's move in the opposite direction in 2023 brought national coverage of Maine's policy shift (e.g. Arger 2023; Christian 2023; Dinan 2023; Rinkunas 2023). Democratic Governor Janet Mills had made her support for abortion rights a key point of emphasis in her successful 2022 campaign for re-election against former Governor Paul LePage (Melcher 2023). Working with a Legislature in which Democrats controlled both houses for her entire time as Governor, Mills had already signed major legislation expanding abortion access into law in 2019. Those bills required Maine Care (Medicaid) and private insurers to cover abortions, and the other allowed some nurses and physician assistants to perform abortions (Wight 2019).

In 2023, Governor Mills went even further to protect abortion rights. Mills was moved by the story of a Yarmouth woman, Dana Peirce, who learned in her eighth month of pregnancy that her fetus had a fatal skeletal abnormality, and who sought to get an abortion. She could not legally do so in Maine and flew to Colorado to get one. Mills sought to change the law to allow for women in situations like Peirce's to have a licensed doctor approve of medically necessary abortions after fetal viability (Overton 2023b).

Although Democrats controlled both legislative chambers, the bill needed extensive lobbying to pass. This was especially true in the House, where it passed with a 74-72 margin, in spite of some Democrats voting no (Overton 2023a.) Opponents of the new law strongly considered launching a people's veto campaign to repeal it (Cover 2023), but after consideration over several months, concluded it would be more cost effective to abandon the people's veto effort and to focus on electing more pro-life legislators instead (Kobin 2023), so the November 2023 Maine state ballot offered no questions considering abortion.

Tribal sovereignty issues

Much of the political activity by Maine's Indian tribes (Penobscot, Passamaquoddy,

Maliseet, and Micmac) in recent years has sought to modify the landmark Maine Indian Land Claims Settlement Act of 1980, which involved the tribes, Maine state government, and the national government. While the tribes were largely initially happy with the agreement, they have come to see it as an obstacle to eligibility to some Federal aid programs, as well as tribal sovereignty (York 2022).

Governor Mills has had policy conflict with tribes going back to her time as Attorney General (Toensing 2018). However, she has expressed interest in improving state-tribal relations and has backed some tribal proposals. To name two such tribe-backed efforts, she worked to help eliminate Indian sports nicknames in all Maine schools and colleges (Maine is the first state to completely eliminate them) and giving tribes exclusive power to offer mobile sports betting (Associated Press 2019; Rogers 2023). But tribes wanted a much broader blanket grant of authority that Mills opposed, arguing that they have been disadvantaged by the 1980 agreement between national government, Maine state government, and the tribes. Mills preferred action on individual issues chiefly for legal reasons, arguing that repealing the 1980 agreement would open the state up to numerous contentious lawsuits. She vetoed a bill that would have given tribes a much broader grant of authority, and that veto was upheld by the Legislature (Palanza 2023).

Elections in 2023: Initiatives

Maine voters faced a menu of eight ballot issues in November 2023: four initiatives, and four constitutional amendments going to voters for ratification. This was one of the largest slates of statewide ballot issues in Maine history. Several of the ballot issues related to electric power in Maine or to tribal sovereignty. (For more details on the 8 ballot issues, see Bellows 2023).

The most prominent ballot issue was Issue 3, which would have bought out Central Maine Power and Versant Power, the two leading delivery services for electrical power in Maine, and created a new public entity called Pine Tree Power. In spite of the deep unpopularity of Central Maine Power (Popp 2022), voters overwhelmingly rejected the public power proposal. One factor was that opponents of the public power plan held a large advantage in campaign spending over its proponents, outspending supporters by a margin of over 20 to 1. Likewise, Issue 1, sought as a backstop by opponents of Pine Tree Power against implementation of public power by requiring a statewide vote to approve borrowing to pay for it should it be enacted, also won (Singer 2023).

But in a rebuke to CMP, voters overwhelmingly approved Issue 2, an initiative to ban foreign governments or entities in which they have a 5% or greater stake from spending money in Maine elections. This was an echo of the 2021 ballot issue that successfully blocked the CMP-backed New England Clean Energy Connect power line project. It would have connected power generated by HydroQuebec to the New England electric grid through western Maine. HydroQuebec, owned by the Quebec government, spent \$22 million in an unsuccessful effort to defeat the initiative to block construction of the new power line (Whittle and Sharp 2023; Valdmanis 2021). Issue 2 was designed to prevent such foreign spending in future Maine campaigns and passed with a resounding 86% of the vote (Whittle and Sharp 2023). For their part, HydroQuebec said that the new law would not affect them, because they found the campaign to be a poor experience and that they would never participate in such a statewide

campaign again (Boynton 2023).

The only initiative among the four on the ballot in Maine that was not tied in some way to electric power was Issue 4, the “Right to Repair” initiative. It focused on making automotive diagnostic repair codes available to non-car dealer repair shops. Maine became the fifth state to enact such legislation and did so with an overwhelming 84% of the vote (Davis 2023). Advertising on the campaign was dominated by supporters, who ran ads featuring employees and owners of local repair shops and Maine repair chains telling voters “It’s your car. Get it fixed where you want” (Maine Right to Repair 2023).

Elections in 2023: Constitutional amendments

Maine voters also had the opportunity to add four constitutional amendment proposals, already approved by the Legislature, to the Maine Constitution. These appeared on the ballot as Issues 5 through 8. Overall, these attracted less attention than the initiatives, particularly Issue 3. None involved significant campaign spending. Issue 6 was likely the most discussed. It sought to return language concerning Indian treaty obligations carrying over from when Maine was part of Massachusetts, to printed copies of the state Constitution. This language was removed from printed copies in 1875. Scholars disagree as to why this was done (Gartner 2023). Maine tribes saw this restoration as an important symbolic recognition of their sovereignty and were pleased to see it pass overwhelmingly (Ohm 2023). Maine voters approved Issue 5, extending time for filing of petitions for ballot issues, as well.

However, Maine voters rejected two other constitutional amendments, Issues 7 and 8 (Sharp and Whittle 2023). Each was a response to federal court rulings nullifying sections of the state Constitution and would have changed the Constitution to line up with federal law. The state was already complying with the federal rulings even without the constitutional changes. Issue 7 would have removed constitutional language requiring that signature gatherers for petitions seeking to put a people’s veto or initiative on the state ballot had to be residents of Maine and registered Maine voters. The 1st Federal Circuit Court ruled this to be unconstitutional in *We The People PAC v. Bellows* in 2022 (Morris 2022), and the state stopped enforcing this requirement.

Issue 8 brought back a constitutional amendment proposal that had failed before, which would have specified that people under mental guardianship would be eligible to vote. Maine voters had rejected such proposals in 1997 and 2000, but the state stopped enforcing this in 2001 after this constitutional provision was ruled as violating the U.S. Constitution by a federal district judge in *Doe v. Rowe* (Smith 2023; Kupersanin 2001). In spite of this, Maine voters again rejected changing their constitution to enshrine this change (Popp 2023).

The mass shooting in Lewiston

October 25, 2023 will go down as one of the saddest and most shocking days in Maine history. An Army Reservist from Maine, Robert Card, who was suffering from paranoid delusions and had been treated for two weeks at an Army mental hospital, opened fire at two businesses in Lewiston, who he believed were spreading false information that he was a pedophile (Lampariello 2023). 18 people died, and many others were injured, some needing

hospitalization for months afterward. President Biden traveled to Lewiston, where he spoke to family members of the victims and to speak to the public with Governor Mills, the mayor of Lewiston and Maine's congressional delegation (Schaedle, Green and Marchick 2023).

In the state which FBI statistics show has the lowest violent crime rate in the nation (Stackhouse 2023) and in which only 28 people died of murders or nonnegligent homicide in 2022 (Wiedmayr 2023), much discussion ensued. Investigations into the handling of Card by everyone from the Army to law enforcement are underway. Much of the attention has focused on Maine's "yellow flag" law and its application. Like red flag laws, Maine's yellow flag law—the only state in the nation which has one—is designed to get weapons out of the hands of those who may be dangerous with them. The yellow flag law makes it more difficult than red flag laws do to take control of a gun from a person who is a possible threat, perhaps most notably by requiring that a medical professional conduct a mental health evaluation of the potential yellow flag target (Umholtz 2023). This, too, is already the topic of much discussion.

Maine Second District Congressman Jared Golden, a Blue Dog style Democrat who had opposed bans on so-called "assault rifles" in the past, announced that the murders in his hometown of Lewiston had forced him to reconsider his position, and that he would now favor such a ban (Yilek 2023). Both Republicans running to replace him, condemned his change of position. One of them, State Representative Austin Theriault (R-Fort Kent) accused Golden of trying to "score political points by attacking the 2nd Amendment" (McCauley 2023).

Future elections

Congressman Golden remains one of the few Democrats elected to Congress in a district carried by Donald Trump. His race for re-election should be competitive, but he has now won three races in a row. First District Democratic Congresswoman Chellie Pingree represents a more liberal and more Democratic district than Golden and should be a strong favorite for re-election. Maine will also have a Senate race for the first time since the Collins-Gideon race in 2020. While Independent Senator Angus King has not formally announced as of the end of 2023 whether he is going to seek re-election in 2024, he is widely expected both to run (Hoey 2023). Though he will be 80 years old by Election Day, no major challengers have announced any intention to run against him, and he should be considered a solid favorite for re-election.

A late breaking development affecting the 2024 elections in Maine is whether Donald Trump will be allowed to be on Maine's Republican primary ballot and, if nominated, on Maine's general election ballot. Following a Colorado ruling that Trump was ineligible to run for president based on the Fourteenth Amendment's Insurrection Clause, Maine Secretary of State Shenna Bellows issued a similar ruling to keep Trump off the Maine Republican primary ballot on the same grounds (Andrews 2013)¹. Trump has already moved to appeal Bellows' decision in Maine court, and a U.S. Supreme Court ruling on Colorado and Maine's actions seems as of this writing to be a strong possibility (Cohen 2023).

Finally, the eyes of the nation will again be on Maine's Second Congressional District. After Maine and both of its congressional districts were carried by the Democratic presidential

¹The Andrews article includes the full text of Secretary Bellows' ruling.

candidate in every election from 1992 to 2012, Donald Trump won his only electoral vote in the Northeast by winning Maine's Second Congressional District in both 2016 and in 2020 (Melcher and Fried, 2023.) . Along with Nebraska, Maine is the only state that follows the district plan for allocating its presidential electors, in which the state popular vote winner gets two electors, and one elector goes to the winner of each congressional district (Melcher 2010). There is every reason to expect that the Second District will be competitive again in 2024, and for there to be many interesting political issues to follow then as well.

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