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Nineteenth Century Constitutional Amendment in Maine

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NINETEENTH CENTURY CONSTITUTIONAL AMENDMENT IN MAINE

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INTRODUCTION

The state of Maine has had but one constitution in its one hundred and forty-four year existence. The document itself, however, has been amended nearly one hundred times. Thirty of these amendments came before the close of the nineteenth century; most of the subsequent amendments were either suggested initially before the turn of the present century or owe their existence to an amendment approved prior to 1900.

What is proposed in this study is an examination of the amendments with particular emphasis upon the conflicting reasons of proponents and opponents of specific measures. This study will attempt to evaluate the necessity and the efficacy of successful alterations of the constitution. It will also attempt to suggest certain trends in the power accorded the three branches of the state government and in the changing role and responsibilities of the electorate.

In strictly numerical terms elections, election procedure, and the franchise far outrank any of the other classes of amendments. Some of these were proposed to meet immediate exigencies; others to clarify, simplify or democratize the system of elections and the franchise; a few to restrict the right to vote.

The power balance in the state government forms the second major class of amendments. These alterations illustrate the changing positions among the three branches of the government and the electorate. Other noteworthy constitutional changes involved apportionment,

debt limitation, taxation, special legislation, and prohibition.

All of the amendments are not of equal importance and the space devoted to each is certainly not an infallible guide to their relative importance. Certain successful amendments were proposed many times; others infrequently; still others just a single time. The reasons for a detailed amendment may be simple and just the opposite. Appendices A throgh H offer a summary of legislative action on amendments throughout the nineteenth century. The above is tempered with the realization that any attempt at historical explanation must deal with failure as well as success and thus a discussion of unsuccessful proposals is an integral part of this study.

CHAPTER I

LEGISLATIVE APPORTIONMENT

The actual number of members and the apportionment of the Maine legislature, and in particular the lower house, has sparked debate ever since the drafting of the original state constitution in 1819. The subject was widely discussed in the early 1840's and in 1875 and was at least mentioned in several other meetings of the legislature.

I. HOUSE APPORTIONMENT

As established in 1819, the house of representatives was to contain between one hundred and two hundred members. A limit of one hundred and fifty representatives was fixed for the first apportionment. Subsequent apportionments, at ten year intervals, were to reflect population changes. Since Maine's population was rapidly increasing, provision was made in the constitution for either removing or amending the two hundred member limit. Once this limit was reached the legislators were instructed to determine popular sentiment in the following manner: people were to vote, in an election prescribed for that purpose, to either increase or lower the number of representatives. The committee on apportionment was then to revise the existing districts to conform with the wishes of the electorate.[1]

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[1] Revised Statutes of Maine, 1840-1841 (second edition. Hallowell, Maine: Glazier, Masters and Smith, 1847), p. 21, 4:1:2.

Within two decades the population of Maine, including "foreigners not naturalized, and Indians not taxed," had risen from 298,335 to 501,796. This increase meant that at least two hundred representative districts were required and that a resolve would have to be submitted to the people.[2]

The 1841 legislature was petitioned for an amendment to both reduce and permanently establish the number of representatives at one hundred or less.[3] A joint-select committee examining the expediency of such a resolve reported favorably on a permanent one hundred and thirty member lower house. The committee foresaw two major benefits; namely, economy in the cost of legislation, and increased efficiency of operation. The ensuing debate resulted in a compromise one hundred and fifty-one member body. This was the only major change in the committee's original resolve which then received both legislative and popular approval.[4] The operation

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[2]The Maine Register and National Calendar, 1843 (Augusta: Daniel C. Stanwood, 1843), pp. 128, 131. Resident aliens and untaxed Indians were not counted for purposes of legislative apportionment. Exactly two hundred districts were established in 1841 and two hundred men served in 1842. The districts were apportioned as follows. York County had twenty-one representatives; Cumberland, twenty-seven; Lincoln, twenty-five; Kennebec, twenty-two; Waldo, seventeen; Hancock, twelve; Washington, eleven; Penobscot, nineteen; Piscataquis, six; Somerset, fourteen; Franklin, eight; Oxford, fifteen; and Aroostook, three. See Resolves Passed by the Legislature of the State of Maine, 1841, chapter 142, pp. 483-495. Additional references will bear a short form similar to the following example, Resolves, 1841, 142:483-495. The same form will apply to Private and Special Laws of the State of Maine and Public Laws of the State of Maine.

[3]These were in addition to petitions presented in 1840.

[4]Documents Ordered Printed by the Legislature of the State

of subsequent legislatures gives the impression that the degree of efficiency attained under a two hundred man body was little improved upon in the more compact lower house. Legislative organization was not accomplished more quickly; committee reports were not issued more rapidly; petitions and bills were not acted upon in a shorter period of time. The payroll of the House did decrease about one-fourth and minor savings were made in other facets of legislative procedure.

Only one other serious attempt to change the number of representatives was made during the entire nineteenth century. This occurred in 1879 as part of Governor Alonzo Garcelon's retrenchment plan to reduce every department of the government "to the minimum of absolute necessity." The committee of the judiciary examined several petitions and a proposed resolve to limit the lower house to a hundred and one members and reported that legislation was inexpedient.[5]

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of Maine, for the Year 1843, House Documents, Number 7, pp. 3-6. Additional references to state documents will bear a short form similar to the following example, House Documents, 1843, 27:3-6. Also see Journal of the Senate of the State of Maine, for the Year 1841, pp. 451, 456, 472. Additional references to legislative records will bear a short form similar to the following example, Senate Journal, 1841, pp. 451, 456, 472. References to legislative journals prior to 1864 are found on microfilm as indicated in the bibliography. In addition see House Journal, 1841, pp. 350, 372, 374, 379, 381, Appendix, pp. 429-438, 473-477; Resolves, 1842, 73:61-63; Revised Statutes, 1840-1841, p. 42. Not certain that the amendment would gain popular approval the legislature had also proposed to the people, as constitutionally required, whether the number of representatives should be increased or decreased for defeat of the amendment would not have definitely established whether or not a larger or still smaller body was desired. The vote on the amendment was 23,884—6,640 rendering the second question unnecessary. See Senate Documents, 1842, 1:6.

The equal apportionment of the number of representatives rather than the actual number itself became the primary consideration as the century progressed. Apportionment had always been on a county basis. "The number of representatives shall ... be fixed and apportioned among the several counties ... according to the number of inhabitants, having regard to the relative increase of population."[6] Hence apportionment of representatives among counties was on a fairly equal basis. Within the individual counties apportionment became less and less equal as urban centers developed. The constitution provided an increasing scale for the election of two or more men from a single town as well as limiting any municipality to seven representatives.[7] Insufficient provision had been made for future redistricting as population changes became apparent. In 1875 the city of Portland had 6,283 residents for each member in the lower house while Windham's man in Augusta was representing less than 2,500 people. Counties having several large urban areas were the most mal-apportioned for the reason that the total number of representative districts per county was determined on an average basis. The increasing scale for multiple representation in a single town or city undermined this average and was the single most important cause of aggravated disapportionment in the more heavily

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[5]Senate Journal, 1879, p. 28; House Journal, 1879, pp. 167, 169, 267, 292. See Appendix A.

[6]Revised Statutes, 1840-1841, p. 21, 4:1:3.

[7]Ibid. The original figures were as follows. Each town with 1,500 inhabitants could elect one member; 3,750, 2; 6,750, 3; 10,500, 4; 15,000, 5; 22,500, 6; 26,250 or over, 7.

populated counties.[8] Less easily solvable was the problem of classing towns together to form representatives districts when individual towns did not possess a citizenry sufficient to return their own representative.

The Constitutional Commission of 1875, presided over by ex-governor and Supreme Judicial Court Justice Edward Kent, presented a resolve to alleviate, if not entirely eliminate, the existing inequality. The increasing ratio and the limit of seven members for any one city were to be eliminated. Towns classed together for representation would have to consist of contiguous territory.[9]

As might be expected the resolve was overwhelmingly defeated in both houses. Most of the nineteen representatives who supported the bill were from towns or cities that were comparatively under-represented. Members from those areas that would lose seats would hardly be expected to vote themselves or their successors out of office voluntarily. Metropolitan newspapers often considered this

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[8]Portland and the county of Cumberland well illustrate this point. The 151 representatives would, if perfectly apportioned, have each represented 4,152 inhabitants. Theoretically Cumberland county's twenty legislators represented 4,101 people each. For the decennium, 1872-1881, Portland had a population of 31,413 and five house members. The combined population of Portland, Cape Elizabeth, and Brunswick was 41,206, slightly over half the county total, yet these three communities returned only seven of the twenty members. The remaining towns in the county divided thirteen members among them.

[9]Public Documents, 1875, 16:5-6. Journal of the Constitutional Commission of the State of Maine, 1875, pp. 10, 14, 22-26, 26-27, 27-28, 62-64. Hereafter cited as Commission Journal, 1875. As yet unpublished, this journal is located in the vaults of the Secretary of State at Augusta. The journal has been paginated by this author, the title page being designated as page 1.

the most pressing amendment of the several proposed by the Commission but their editorials did not convince representatives from country districts.[10]

Rural opponents of the bill used one of two arguments. In those areas that had experienced little increase in population or perhaps even a small loss it was asserted that the Commission's proposal "might well insure the doom of the voice of the smaller town."[11] Although the Aroostook region is the best example, other rapidly-expanding areas agreed with John Fairfield who, as early as 1840, had recognized that the population of a county might increase sharply in ten years but until the subsequent reapportionment no additional representatives could be attained by that county. Not until the twentieth century, however, was any important change enacted.[12]

Two other changes, each proposed but a single time, are of minor significance. An 1846 attempt to amend the constitution so

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[10]Representatives from Portland, Lewiston, Bath, Auburn, Saco, Bangor, Ellsworth, Biddeford, and Belfast cast affirmative votes. The Portland Daily Advertiser, January 27, 1875; Portland Transcript, February 27, 1875; and Daily Eastern Argus /Portland/, January 28, 1875 praised the bill. Also see House Journal, 1875, pp. 236, 249-250 and Appendix H.

[11]Allen Ellington Rogers, Our System of Government (Orono: n.n., 1896), p. 494. Hereafter cited as Rogers, Our System.

[12]Public Documents, 1840, 9:6-7. In 1949 the increasing ratio was removed but the seven member maximum for any one city was retained. "Fractional excesses" were given to smaller counties and towns which benefitted the rural voter. See Edward French Dow, Our Unknown Constitution (Originally published in the Portland Sunday Telegram, March 11-May 13, 1962 and later issued in mimeograph form by the Department of History and Government of the University of

as to allow a representative for each town was buried in committee. The obvious disadvantages of such a proposal are easily evident. The legislative body would become quite unwieldy, expenses would soar and larger communities would have even less influence.[13] A proposal to base apportionment upon the number of legal voters rather than on the population was introduced later in the century; it too remained in committee.[14]

II. SENATE APPORTIONMENT

Senatorial representation was vigorously contested as a result of the legislative reapportionment of 1841. The constitution had provided for a maximum of thirty-one senators who would be divided among districts which were to "conform, as near as may be, to county lines."[15] One of the districts reapportioned in 1841 was composed of Oxford county plus parts of York, Cumberland, and Franklin counties. Petitioners demanding a voiding of the reapportionment of 1841 solicited the opinion of the Supreme Judicial Court. Two of the justices wrote that while the apportionment was within the law they would not comment on whether "discretion was judiciously exercised." Justice Ether Shepley disagreed with his colleagues and asserted that the legislators had acted neither

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Maine at Orono), pp. 18-19. Hereafter cited as Edward Dow, Constitution.

[13] House Journal, 1846, p. 171.

[14] House Journal, 1883, pp. 109, 173.

[15] Revised Statutes, 1840-1841, p. 23, 4:2:2.

within the spirit nor the pale of the law. He stated that non-adherence to constitutional regulations voided the law; thus the ten year limitation could be legally circumvented.[16]

Undaunted by their legal setback, petitioners proposed that the Senate be apportioned in 1843, 1851, and every ten years thereafter into districts consisting at all times of contiguous territory within a single county so as to provide as nearly as possible equal representation. The bill was read, debated, and refused passage in both houses. A majority refused to accept the claim that gerrymandering was being perpetrated. They agreed with Justice John Tenney that an act is not unconstitutional just because it appears that another method of districting would have resulted in a stricter compliance with the provisions of the constitution. Finally they believed, Justice Shepley notwithstanding, that the constitutional limitation of ten years between apportionments had to stand unless the constitution itself was amended. The suggestion that this particular reapportionment helped cause the rash of senatorial vacancies in the 1840's is rather weak. The primary cause was a multitude of splinter and third party movements which drained off support from the regular Whig and Democratic candidates and made a majority victory hard to achieve.[17]

The 1851 and subsequent reapportionments were based almost

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[16]Senate Documents, 1842, 30:3, 10-11, 22-25, 27-28, 30.

[17]Senate Documents, 1842, 4:3-4; 1842, 30:27-28, 30; House Journal, 1842, pp. 170, 930-931; Senate Journal, 1842, pp. 105, 435, 450; Maine Farmer /Augusta/, January 29, 1842.

exclusively on county lines and the basis of apportionment became a forgotten issue. A twentieth century century resolve (1931) provided the first and only amendment to this particular section (4:2:1) of the constitution. Amendment LIII established an increasing scale, with a county having less than 30,000 people entitled to one senator; one with over 240,000, the maximum of five senators.[18]

Legislative apportionment has been an enduring problem in Maine. Maine's legislature is more equitably balanced than many other states, yet several improvements suggested by Edward F. Dow could render both houses more truly representative bodies. Discrimination against larger communities and counties should be eliminated, a maximum number of senators established, and an automatic reapportionment section inserted into the constitution.[19]

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[18]Resolves, 1931, 133:634-636.

[19]Edward Dow, Constitution, p. 20.

CHAPTER II

STATE AND MUNICIPAL DEBT LIMITATION

Constitutional debt limitations on both the state and local levels were in effect by 1879. The state limitation had come prior to 1850 and was more of a precautionary measure designed to prevent certain abuses which had existed previously. Limitation of town credit had a more immediate objective; that being a restraint on local support of railroad enterprises, which were often of a dubious nature though highly praised by the promoters and others of their ilk.

I. LIMITATION OF THE STATE DEBT

The pattern of Maine's financial history was not unlike that of many of her sister states during the nineteenth century. In the 1820's the government was conducted economically and revenues nearly sufficient to meet expenditures were received. The state debt in 1821 was $25,300; by 1830 it had risen only to $45,000. From 1830 to 1836 expenditures increased as did certain revenue sources other than direct taxation, especially land sales. Annual deficits were reported thereafter until 1842 and the borrowing power of the state grew progressively weaker. Retrenchment was the only solution; coupled with a reintroduced state property tax, Maine slowly regained financial stability.[1]

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[1] Fred Eugene Jewett, A Financial History of Maine (New York: Columbia University Press, 1937), pp. 28-29, 30-37. Hereafter cited as Jewett, Financial History. State taxes for 1840 and 1847 were

The non-assessment of a state property tax for the years 1836 to 1839 was based on the mistaken assumption that frenzied land speculation in Maine would continue unabated indefinitely. Another important revenue source, the semi-annual tax on the capital stock of banks, had been assigned for the support of the common schools in 1833.[2] Once the speculative bubble burst resort had to be made to loans to carry out the essential functions of the state government.

Maine had not widely invested in internal improvement schemes, although such proposals had been made. Maine Whigs generally supported internal improvements whereas most Democrats opposed public aid to any enterprise that could be promoted through individual initiative. State aid for a Wiscasset to Quebec railroad was successfully opposed, according to Hannibal Hamlin, for four reasons.[3] The first was a question of party policy; the second was the belief that Maine could not afford such promotions. Third, and perhaps the weakest of Hamlin's points, was that it would encourage continued land speculation. This is entirely without foundation if Hamlin wished to imply that the Democratic party opposed land

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were $100,000; 1844 and 1845, $150,000; 1841-1843, 1846, 1848-1849, $200,000 each. See Report of the Treasurer of the State of Maine, for the Years 1848-1849, p. 13. Hereafter cited as Treasurer's Report.

[2]Treasurer's Report, 1837, p. 5; 1850-1851, p. 8. For land speculation in Maine see Richard G. Wood, A History of Lumbering in Maine, 1820-1861 (University of Maine Studies, Second Series. Orono: University Press, 1935), pp. 74-82.

[3]Charles Eugene Hamlin, The Life and Times of Hannibal Hamlin (Cambridge: Riverside Press, 1899), pp. 60-61.

speculation. The incumbent Jacksonian governor, Robert Dunlap, had even suggested that the state's credit be pledged to induce investment from abroad which would provide internal improvements. It was, said the governor, in keeping with the spirit of the age.[4] The fourth and final point in Hamlin's repertoire of opposition was quite practical. The approval of such a plan, and its ultimate success, would have enhanced the power of the Whigs in the ensuing political campaigns.

The bulk of Maine's debt was the result of loans to pay official salaries and conduct normal governmental operations plus the extraordinary expenses incurred in the so-called Aroostook War. The report of the treasurer for 1839 cried bitter tears over the excessive use of the credit system which "has produced a revulsion and prostration ... greater than hitherto known or experienced."[5] Three years later his successor warned that state expenses should be repaid through direct taxation and other assessments and should consist of revenue only. "Only on some unforseen exigency should the credit of the State be pledged to raise funds by public loans. Such, however, it seems has not been the policy. The faith of the State has been repeatedly pledged to raise funds when no uncommon exigency existed." He chastised his predecessors for recommending the dropping of the state property tax and the legislature for accepting the suggestion. Yet his was a judgment based on hindsight;

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[4]Public Documents, 1837, 2:5.

[5]Treasurer's Report, 1843, p. 16.

TABLE I

PUBLIC DEBT OF MAINE:1836 TO 1852

Year	Amount	Year	Amount
1836	$ 135,000	1844	$1,590,931
1837	280,568	1846	1,274,285
1838	584,259	1847	1,142,700
1839	1,187,442	1848	1,008,200
1840	1,734,861	1849	979,000
1841	1,734,861	1850	854,750
1842	1,725,362	1851	626,400
1843	1,663,431	1852	471,500

Source: Treasurer's reports for corresponding years.

a method often resultant in overly-harsh criticism.[6]

Although discussed informally in the interim, a resolve, in the form of an amendment, was first presented in 1847. Governor John Dana had set the stage in his inaugural address when he noted that legislative inducement should not be sought by those engaging in any enterprise.[7] As first presented, the resolve contained a $150,000 debt ceiling which was amended to $300,000 by the lower house. The people affirmed the action of the legislature by a 20,421—5,582 vote.[8] They agreed that

> The credit of the state shall not be directly or indirectly loaned in any case. The legislature shall not create any debt or debts, liability or liabilities, on behalf of the state which shall ... exceed three hundred thousand dollars except to suppress insurrection, to repel invasion, or for purposes of war.[9]

Thus Maine had the sixth amendment to her constitution; one which attempted to correct an earlier state policy but which above all sought to eliminate the possibility of future legislative speculation or extravagance.[10]

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[6] Treasurer's Report, 1843, p. 16.

[7] Public Documents, 1847, 4:3-4.

[8] House Journal, 1847, pp. 141, 339, 349, 369-370, 383; Senate Journal, 1847, pp. 138-139, 153, 175, 201, 342-343, 408, 428. Compare the original resolve, Senate Documents, 1847, 9:1-2 with the amended product, Resolves, 1847, 29:22-23. Also see House Documents, 1848, 24:1-2; Maine Farmer, June 17, July 15 and 29, 1847.

[9] Revised Statutes of Maine, 1857 (Bangor: Wheeler and Lynde, 1857), pp. 49-50. Hereafter cited as Revised Statutes, 1857.

[10] Louis Clinton Hatch (ed.), Maine: A History (5 volumes. New York: American Historical Society, 1919), 3:720. Hereafter cited as Hatch, History.

II. MUNICIPAL CIVIL WAR DEBTS

With a single exception the above amendment remained intact for over sixty years. That one change was as a direct result of the Civil War. The belief of most citizens, even in the early days of the war, was that the participants in the conflict should receive an extra compensation or bounty for their military service. A bounty was essential for other reasons. The adjutant general's reports had yearly attacked the disgraceful shape of the state militia. General John Hodsdon—whose term of service spanned the Civil War—claimed that if constitutional provisions for military preparedness had been followed sufficient troops would have been supplied without any resort to bounties.[11] The draft itself raised the question of the patriotism of the state. Many citizens would have felt disgraced if most, if not all, draft calls could not have been filled by "patriotic volunteers." Finally a bounty system enabled financially-secure municipalities to entice volunteers from poorer rural areas.[12]

Maine provided a bounty of two months pay for volunteers in the first ten regiments secured for two years service. Community bounties in 1861 and early 1862 were comparatively small, usually ranging from $25 to $100. General Order 22 (July 17, 1862) raised

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[11] Report of the Adjutant General of the State of Maine, for the Year, 1862, pp. 24, 26-28. Hereafter cited as Adjutant General's Report.

[12] Each state was assessed a definite number of men based on the 1860 census; the states divided their quotas by population also.

state bounties to $45 for enlistees in new regiments and to $55 for enlistment in any regiment in the field.[13] This was an attempt to alleviate municipal burdens and to compete with other New England states offering higher financial inducements. The adjutant general also hoped to discourage illegal recruiting activities of communities "where wealth acculmulates but men decay."[14]

It was assumed that each recruit would enlist under the quota of his town and that local bounties would level off. This was not the case. At least one-third of those who enlisted in 1862, claimed the adjutant general, managed to circumvent this regulation.[15]

It was assumed by most citizens that the state would eventually assume all of the obligations incurred by the several towns in the defense of the Union and thus an attempt was made in 1863 to provide a uniform bounty. The state allocation had been raised to $100 for every three year enlistee. General Order 22 (October 31, 1863) discussed the bounty system at length. The adjutant general strongly suggested that town bounties be kept

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[13] Adjutant General's Report, 1861, p. 5; Maine Farmer, July 31 and August 17, 1862.

[14] Adjutant General's Report, 1862, pp. 6-7, 22, Appendix A, p. 8; Public Laws, 1862, 85:69-70. Towns often sent lists of their quotas to rendezvous areas through local recruiting officers. The officers were often accosted by agents of other towns who "purchased" the lists for from $25 to $100 per name. Papers were forged, the names of the men transferred to the new town, and the original town lost its volunteers. It was not uncommon for lists to be sold three or four times.

[15] Adjutant General's Report, 1863, p. 35.

between $100 and $200. If not, "great injustice will be wrought to the smaller and poorer localities ...[who] may find it impossible to fill their quotas" because larger bounties were offered elsewhere.[16]

He further stated that residence restrictions on enlistments were impractical, yet he hoped that all would enlist under the quotas of their respective towns, unless they had been previously filled. Impractical or not, such a regulation was established within five weeks as bounties twice the suggested limit increased in frequency. Now each recruit was required to sign a contract stipulating his regiment, residence, and bounty received which was returned to the office of the adjutant general. No town paying, in any manner, a bounty in excess of $200 was to be credited with a recruit whose town of residence had not been able to fill its own quota.[17]

Official and unofficial sources alike commented that the higher the bounty, the poorer the recruit, and suggested that lower bounties or even a complete elimination of the bounty system would result in a renewed burst of patriotism and an elimination of private recruiting agencies. A civilian storekeeper claimed that "our new recruits are made up of the scum of the community--vagrants, negroes, foreign immigrants & the devil & all. Very few respectable men can

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[16]Public Laws, 1863, 218:162; Resolves, 1863, 198:237-238; Adjutant General's Report, 1863, pp. 10, 35-37, Appendix A, pp. 13-14; Maine Farmer, November 12, 1863.

[17]Adjutant General's Report, 1863, pp. 36-37, Appendix A, pp. 18-21; Maine Farmer, November 26, 1863; Hatch, History, 2:496-498.

TABLE II

STATE DRAFT CALL FOR 1863 TO FILL QUOTA VACANCIES

District	Total Drafted	Furnished Substitute	Paid Commutation	Exempted	Entered Service
Portland	3,686	514	150	2,989	33
Lewiston	2,643	273	298	1,953	119
Augusta	3,540	292	774	2,280	194
Bangor	2,933	337	214	1,999	383
Belfast	3,285	321	501	2,385	78

Source: Adjutant General's Report, 1863, pp. 9-10.
The commutation fee was a standard $300.

be pursuaded to enlist."[18] Most of the new enlistees, asserted the adjutant general, spent their bonuses rapidly, obtained fradulent discharges or deserted and returned "only to secure the enormous gratuities so insanely proffered, and to demonstrate to their old companions in arms the manifest advantage in their case of a careful avoidance of hardship and danger over a faithful adherence to duty."[19]

No additional action was taken until the federal draft call of 500,000 men on February 1, 1864. Governor Samuel Cony immediately communicated with the legislature requesting an "adequate and uniform bounty." Quick legislative action enabled the adjutant general to issue an order on February 2, 1864 which established a $300 state bounty for all volunteers and prohibited all town bounties. Subsequent bills tightened loopholes in the February legislation.[20]

As previously indicated municipalities assumed that the state would eventually reimburse their wartime expenditures. The state in turn expected that federal assumption of state war debts

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[18]Pierce Long (ed.), From the Journal of Zadoc Long, 1800-1873 (Caldwell, Idaho: Caxton Printers, Ltd., 1943), p. 218. Hereafter cited as Long, Journal.

[19]Adjutant General's Report, 1863, pp. 23-24; Maine Farmer, November 12, 1863. This could hardly have been said of volunteers in the Mexican War who received $5 each. See Adjutant General's Report, 1847, pp. 10-11.

[20]House Journal, 1864, pp. 182, 235, 242-243; Public Laws, 1864, 227:170-171; 1864, 259:193-194. Resolves, 1864, p. 385 contains the governor's special message. Compare Resolves, 1864, p. 385 and Public Laws, 1864, 227:170-171 with Senate Documents, 1864, 8:1-5; 1864, 28:1-4; House Documents, 1864, 8:1-3; 1864, 26:1-3 which were other proposals to modify the town bounty system. Also see Maine Farmer, January 28, February 11 and 18, 1864.

would be rapidly forthcoming.[21] Governor Cony stated that war debts had been incurred for the defense of the nation. He also noted that the war had dried up local sources of credit.

A committee on the assumption of municipal war debts was established in 1864.[22] In its report the committee suggested that no definite action be taken until the position of the federal government was determined. Whatever Washington's decision, the committee recommended that state assumption of municipal debts eventually take place so that the burdens of the war might be made to fall equally upon the people of the entire state.[23]

In 1866 a joint committee report stated that municipal war debt assumption would be unconstitutional. No emergency existed at present, nor would the payment of such claims prevent any threatened emergency. The report claimed that certain towns had made "reckless and extravagant appropriations" which ought not to be reimbursed. Such payments would destroy the precarious credit of the state. This attitude was in sharp contrast with an earlier state treasurer who foresaw no difficulty in repaying to towns "the amount advanced by them under previous calls."[24]

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[21]Jewett, Financial History, pp. 48-51, 52-53 documents the fact that 72.2 per cent of the direct cost of the war in Maine came from state and state-assumed bounties. Actual bounty payments by the state were: 1861, $195,000; 1863, $636,000; 1864, $2,988,000; 1865, $748,000; 1866, $46,000; 1870, $3,105,000 (town debts assumed under Amendment XI).

[22]Resolves, 1864, 368:349.

[23]House Documents, 1864, 31:1-6; House Journal, 1865, pp. 14-15; Maine Farmer, March 24, 1864.

House Documents, 1866 74:1-7; 1866, 76:1-3. The latter

Cognizant of these conflicting opinions the legislature ordered the governor to request a court opinion on the constitutionality of such a bill and to appoint a five man commission to establish the method and the amount of assumption. The Court ruled against the bill.

> The bill proposes to create a debt where none now exists. It is not a bill to create a debt to suppress insurrection, to repel invasion, or for the purposes of war .... It is a bill to create a debt to pay the debt or expenditures of municipal corporations in the creation of which the State was not a party, in the disbursement of which it was not consulted and over which it had no control, and for the payment of which it is under no present liability.[25]

Notwithstanding this legal roadblock, the debt commission commenced its labors and the legislature drafted a bill to equalize municipal war expenditures. The commissioners recommended a payment of $100 for every man furnished for three years service and proportionately smaller amounts for lesser periods of service.[26] The 1868 legislature, heeding Governor Joshua Chamberlain's advice, presented a resolve for a war debt amendment to the constitution. Very scant opposition to the principle of war debt assumption arose but there was protracted debate over the amount and manner of repayment. Proposals to double the amount recommended by the commission

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was a minority report presenting a debt assumption bill. Also see House Journal, 1866, pp. 100, 226, 290.

[25]Maine Farmer, April 11, 1867. Also see Resolves, 1867, 174:121.

[26]House Documents, 1867, 64:1-3; House Journal, 1867, pp. 120, 135, 351, 297-298, 305, 321, 332. Also see Hatch, History, 2:498-499.

and to further restrict the coverage were presented; only the latter was accepted.[27]

Both the amendment and the bill that hinged upon it received final legislative passage and the amendment was overwhelmingly approved at the annual state election in September of 1868. As a result state bonds were to be issued to cover the payment of $100 for every man furnished under and after the draft call of July 2, 1862 for three years service and corresponding amounts for shorter terms. The war debt commission was recognized as the final authority on the payment due each community.[28] The commissioners later reported that they had issued certificates totalling $3,105,183.33 and bonds for the payment thereof to the amount of $3,084,400; well under the $3,500,000 limit imposed by the amendment.[29] A sinking fund was established and an additional annual property tax of one-half mill on the 1860 valuation was levied to provide revenue for the fund. By 1889 the debt was all but extinguished and the bonds retired.[30]

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[27] Senate Journal, 1868, pp. 22, 156, 199, 276, 311, 335, 377, 416; House Journal, 1868, pp. 157, 346, 375-376, 405. Also see Senate Documents, 1868, 11:1-11 for the amended resolve which received final approval and compare with Senate Documents, 1868, 47:1-9 and House Documents, 1868, 125:1-13 offered as substitutes. Public Laws, 1868, 225:154-158 contains the bill which received final approval.

[28] House Journal, 1868, p. 405; Senate Journal, 1868, p. 396; Revised Statutes of Maine, 1871 (Portland:Bailey and Noyes, 1871), pp. 53-54. Hereafter cited as Revised Statutes, 1871. Also see Treasurer's Report, 1868, pp. 12-13.

[29] The fractional excess less than $100 (the smallest bond issued)—$20,783.33—was paid in currency. Compare Treasurer's Report, 1869, pp. 11-18 which lists the amount paid to each town with Senate Documents, 1867, 28:1-45 which contains expenditures reported.

[30] Jewett, Financial History, pp. 51-52, 55-56, 64-65 discusses

III. ATTEMPTS TO ALTER AMENDMENT VI

For perhaps two decades (1850-1870) railroad interests strove mightily to either abolish or amend the state debt limit amendment to secure state aid for railroads. A memorial to the legislature from John A. Poor in 1857 argued that additional railroads and progress would be synonymous in Maine. He asserted that the principal growth in the Pine Tree state had taken place in towns near or on rail transportation. Poor requested land grants plus a constitutional amendment to permit a maximum of $10,000 per mile state aid for a railroad to the Maritimes.[31] The succeeding legislature (1858) listened to a similar plea from the State Agricultural Society. This group pointed to the widespread westward emigration by Maine residents and claimed that it would increase in intensity unless the public lands of Maine be pledged as security for the loan of the state's credit in aid of the Aroostook Railroad.[32]

The pleas of the memorialists did not go unheeded. A bill entitled "an act to aid the Aroostook Railroad Company, increase the

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the technical points of the bond issue. See also Treasurer's Report, 1869, p. 11. Public Documents, 1870, 20:3-29 is the war debt commission's final report.

[31] House Documents, 1857. 42:1-11. The Maine Farmer, May 14, 1857 deplored Maine's transportation systems but recommended land grants only. See Appendix B.

[32] House Documents, 1858, 4:20-21, 24-25. Treasurer's Report, 1857, pp. 11-12 opposed any change in the debt ceiling. Compare with Report of the Secretary of the Board of Agriculture of the State of Maine, for the Year 1857. pp. 33-34. Hereafter cited as Board of Agriculture's Report. Also see Maine Farmer, February 18, 1858 and April 21, 1859.

value, and promote the sale and settlement of the public lands" and a related constitutional amendment were presented.[33] The title is significant. The benefits that would eventually accrue to the promoters if the enterprise was successful were minimized. The value of such a rail line to the entire state was emphasized, both to suggest an era of future prosperity and to eliminate sectional jealousy. This particular act pledged a maximum of $2,000,000 state credit. For every ten miles of track certified complete the company would receive $120,000 of six per cent state bonds which the state would redeem through the sale of the public lands. Regional jealousies did play a hand in the defeat of the measure and its subsequent referral to the next legislature.[34]

Proponents of the bill were forced to change their approach in the 1859 session as a new bill pledging direct state aid of $700,000 plus other resources (land office notes and securities) ran into stiff opposition. A substitute bill, based entirely upon land sales revenue, was introduced and received quick legislative approval. The Maine Farmer praised the Smart Bill as it eliminated a direct loan of the state's credit and avoided the necessity of a constitutional amendment. One final hurdle had to be surmounted; public approval was required. The June, 1859 election was a disappointment to the friends of the railroad. Opposition predicted by the Maine Farmer did materialize and this defeat temporarily discouraged the

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[33] Senate Documents, 1858, 27:1-6.

[34] Senate Documents, 1858, 27:3-6. Also see Senate Journal, 1858, pp. 251, 281, 357-358; Maine Farmer, April 1, 1858.

railroad interests.[35]

The advent of the Civil War revived hopes of state aid for a railroad into the Aroostook region. Promoters could and did stress the military necessity of such a line. Efforts were also made to obtain federal aid. Rumors about and the actual appearance of Confederate agents in northern Maine substantiated the claims of John A. Poor and others. Governor Israel Washburn (1861) refused to recommend a change in the constitution but promised to support all other measures for necessary internal improvements. On the Aroostook region he commented that "what is wanted is ACCESS—cheap, speedy, easy communication with the marts of trade and commerce" which could be best provided by land grants to railroads.[36]

Early in the same year John A. Poor again memorialized the legislators, this time on behalf of the European and North American Railway.[37] He painted a dark future for Maine if the northern part of the state was not opened to rail transportation. Poor proposed an annual state loan (obtained through increased taxation) to secure construction. The state land agent echoed Poor's sentiments. "An

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[35]House Documents, 1859, 15:1-9; 1859, 34:1-6; 1859, 39:1-7 all provided for direct state aid. Compare with the final bill, Public Laws, 1859, 119:107-111 in which the revenue would be gotten by the railroad only after the land had been sold. Also see Maine Farmer, March 24 and 31 and May 26, 1859 on the efficacy of the substitute bill. The June 9, 1859 Maine Farmer predicted that indifference local jealousy, depression of many other railroad stocks, and competing railroad interests would defeat the important measure.

[36]House Journal, 1861, p. 15.

[37]This line was designed to provide through service between Bangor and the Maritimes. See Public Documents, 1861, 17:41-45.

enterprize which promises such lasting and substantial benefits to all ... must in the end, overcome all obstacles and be accomplished."[38]

Undaunted by Bangor's refusal to provide aid, Poor prepared and presented a comprehensive report on the condition of Maine's defenses to the 1863 legislature. This document, he hoped, would illustrate the immediate necessity of a small state subsidy to complete a northern railroad "for carrying mails, troops, public stores, and munitions of war."[39] Throughout 1863 the Maine Farmer ardently supported an Aroostook railroad stressing both its immediate military necessity and future commercial utility. Since military concerns were most pressing, the editor recommended solicitation of federal support. It is "no more than the spirit of the age demands," cried The Northern Monthly.[40] Governor Samuel Cony agreed that federal aid was necessary and this approach to railroad financing overshadowed demands for state and local credit

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[38] Annual Report of the Land Agent of the State of Maine, for the Year 1861, p. 7. Hereafter cited as Land Agent's Report. House Documents, 1861, 18:1-3 was a proposal to supply direct to the Aroostook Railroad. The grant, approved by the legislature, was contingent upon Bangor's also loaning its credit. The voters refused to do so in a March 9, 1862 election because the bill presented no safeguards for the city. Bangoreans opposed this particular measure, but not the principle of aid to railroads. See Land Agent's Report, 1862, pp. 7-8 and the Maine Farmer, March 27, 1862.

[39] House Documents, 1863, 1:42. The entire report shows evidence of careful preparation.

[40] "Our State Policy," The Northern Monthly 1:184-185, May 1864; Maine Farmer, January 1 and 15 and November 5, 1863. Direct state aid for the Milford and Princeton Turnpike received the Farmer's support. The editor frankly admitted that there was little

until 1866. The payment of old federal debts was requested. Compensation was demanded for territory "rightfully" a part of Maine "bargained away" in the Webster-Ashburton Treaty (or 1842 Treaty of Washington) as well as lumber cut on disputed Aroostook lands.[41]

The 1866 legislators launched a two-pronged attack. On the federal level they demanded payment of the interest on money spent during the War of 1812; Massachusetts having agreed to donate her two-thirds share, the entire amount would be turned over to the European and North American Railway. On the state level they instructed a special committee to consider an amendment providing a maximum of $10,000 state credit per mile to any railroad corporation if the legislature so ordained.[42]

Neither attempt was immediately successful; both were vigorously renewed in 1867, the later proposal over the protest of the state treasurer who opposed the creation of a debt that would be saddled on future generations. Governor Joshua Chamberlain actively supported state subsidies for railroad construction. In his 1867 inaugural address he stated that twenty years previously circumstances demanded a debt limitation but now "the question is

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chance of raids by "our secesh neighbors from rebeldom" but if such fears would help to complete the road, albeit it under the guise of a military road, they should not be discouraged.

[41] House Documents, 1864, 12:1-10; Public Documents, 1864, 3:26-27.

[42] Senate Journal, 1866, pp. 134-135. Treasurer's Report, 1870, p. 12 contains the provisions of the Massachusetts resolve assigning her interest in the war claims to the European and North American Railway.

what we are to do to save Maine .... We have been too long content with the doubtful compliment that 'Maine is a good state to go from.'"[43] John Alfred Poor, perennial railroad promoter, in a Belfast, Maine speech, summed up the problem as he saw it with a question. "And the question is, not whether you can have the railroad, but can you afford to live without it?"[44]

Despite the oratory both houses were still unwilling to amend or abolish Amendment VI (except for the assumption of municipal war debts) yet they wished to assist railroad construction in some manner. A compromise was formulated whereby towns were permitted to raise up to five per cent of their assessed valuation in aid of any railroad within the state. Previously all local assistance had to be approved by the legislature; now the lawmakers had to be concerned only with loan schemes which exceeded five per cent of the town's valuation.[45] Opponents of the compromise argued that state aid was a simple process. Reconciliation of the special interests of the affected towns would be unnecessary. They further asserted that state bonds would command a higher price; a

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[43]House Journal, 1867, pp. 42-43. Also see Willard M. Wallace, Soul of the Lion (New York: Thomas Nelson and Sons, 1960), pp. 209-210, 213, 216 concerning Chamberlain's attempt to abolish Amendment VI. Report of the Railroad Commissioners of the State of Maine, for the Year 1867, p. 3 supports Chamberlain thought it does not mention him by name. Hereafter cited as Railroad Commissioners' Report. Compare with Treasurer's Report, 1866, p. 13.

[44]The Railway: Remarks at Belfast, Maine, July 4, 1867 (Boston: Little, Brown, 1867), p. 44.

[45]Public Laws, 1867, 119:68-69; 1868, 210:143.

lesser face value bond issue would naturally reduce costs. The state would be the better judge of the feasibility of a proposed railroad. Finally the state's risk would be minimal whereas the failure of a railroad venture could well destroy the financial integrity of a single town. All their pleas were in vain.[46]

The European and North American Railway was not forgotten in the excitement over the war debts amendment. The governor was authorized to convey by deed to the railway all otherwise-unassigned state land and timer on the waters of the Penobscot and St. John Rivers. These lands were to be surveyed and sold under conditions similar to those of the land agency. Whatever timber could not be used in construction would be sold to provide additional capital. To those wary of the transaction the land agent reported that the state still gave primary concern to the interests of the pioneer settler and would closely check the railway's disposition of the grant.[47]

Governor Chamberlain continued with his suggestion that Amendment VI be repealed. Especially in 1869 he spelled out the reasons for state aid. Safety, economy, and effectiveness supplemented his main thesis that such aid was vital to the future prosperity of the state. Nonetheless legislative committees twice

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[46] Senate Documents, 1867, 80:1-6; House Documents, 1867, 97:1-9; House Journal, 1867, pp. 42, 68; Maine Farmer, February 28, 1867.

[47] Private and Special Laws, 1868, 604:524-526; Land Agent's Report, 1868, p. 9. Senate Documents, 1869, 57:2 gives the location of the approximately 735,000 acre grant.

reported that such action was inexpedient.[48] Quietly edging into the picture were the 1812 War claims. State agents in the nation's capital had reported some success in their efforts. Joshua Chamberlain, in his fourth term as governor, traveled to Washington in February of 1870 to exercise his personal influence. Five months later Congress approved payment of $678,362.41 in full settlement of the interest claims which was duly conveyed to the treasurer of the European and North American Railway.[49]

This action closed the final chapter of state aid for railroad construction in Maine. Only one railroad ever received considerable state assistance. The total amount expended for several earlier surveys was less than $100,000. The increasing opposition to railroad assistance is directly related to the changing attitude toward the monolithic railroad corporation. Ideas popularized by Grangers, Greenbackers, and Populists all permeated Maine. All three groups demanded greater regulation over or even governmental control of the railroads. Eventually only areas still lacking

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[48] For the governor's remarks see Senate Journal, 1868, pp. 39-40; 1869, pp. 36-37. Also see House Journal, 1868, pp. 176, 223; Senate Journal, 1869, pp. 226, 273.

[49] This included the share previously assigned by Massachusetts. The 1870 payment was in addition to $113,906.25 collected from the federal government in 1868 and $32,687.50 received from Massachusetts. Overall the European and North American Railway received $824,956.16 plus the land grant. See Treasurer's Report, 1868, pp. 5,14; 1870, pp. 11-12; Jewett, Financial History, pp. 45, 160, 188. The Maine Farmer, March 5 and 12, 1870 had questioned the motives of Chamberlain's trip to Washington and suggested that it was a pleasure cruise taken during an important legislative session. In 1831 the state had received $132,000 from the federal government for War of 1812 "militia expenses."

rail connections continued to petition the legislature for repeal of the sixth amendment.[50]

IV. MUNICIPAL INDEBTEDNESS

An examination of municipal indebtedness is a necessary complement to any discussion of state credit. A statutory municipal debt limit had been discussed since the financial panic of the late 1830's—a panic resulting in great measure from both public and private speculation and internal improvement schemes. Until the Civil War, however, proponents of municipal debt limitation were largely ignored. One early committee formed to discuss the issue asked to be discharged from its duties. Times were generally prosperous, propaganda was prolific, and legislators liberally approved local requests to purchase stocks or issue bonds for railroad construction. Legislative conflicts rarely arose over the principle of state aid; they did emerge over the merits of competing proposals—merits based on politics and regional jealousy.[51]

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[50] Jewett, Financial History, pp. 45, 160. In 1871 it was proposed that the legislature strictly control railroad operations to the extent of franchise revocation if railrods refused to accept maximum rates set by the legislature. A similar attempt, also ending in failure, was made the following year. See Senate Documents, 1871, 2:7-10; House Documents, 1872, 11:1. Also see Maine Farmer, January 21, 1871 which recommended a constitutional convention to discuss this and other issues. The Constitutional Commission of 1875 rejected a proposal to revoke or amends charters if necessary and in other ways restrict railroads and other business corporations. See Commission Journal, 1875, pp. 29-30, 37, 44, 58.

[51] Senate Journal, 1850, pp. 423-424, 461-462; House Journal, 1855, p. 171. By 1852 ten cities and towns had loaned their credit to the amount of $2,825,000. See House Documents, 1851-1852, 37:2.

Not all promoters were scrupulously honest, nor were all ventures financially lucrative, but in the main the results were satisfactory.[52]

Bangor was becoming the center of activity for northern railroad construction. Mayor Isaiah Stetson reflected the changing attitude toward municipal credit. Speaking in 1860 he claimed that credit should be granted only for "great emergencies;" one such emergency was a railroad to Aroostook County. The Civil War strained the budgets of Maine's communities; local railroad aid was forced into the background. The one exception was the defeat of an act allowing Bangor to authorize its credit up to $850,000 for a line from Bangor to Mattawamkeag. War and all, Bangor would have been willing to approve the measure had it provided sufficient protection for the city's loan.[53]

In 1867, as previously mentioned, a compromise over state

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[52]Hence a comment like the following discouraged few; financial difficulties were somehow usually surmounted. "The railroad, which cost us more than we were able to pay, has gone into the hands of creditors abroad, & is now beyond redemption. The people of this neighborhood have sunk more than $50,000 in it. It is now likely to be stopped, the rails to be taken up .... The prospects of Buckfield are discouraging." Twelve years later Zadoc Long recorded that a $15,000 town credit had been voted down and the line would be discontinued. Several weeks later $50,000 had been raised and regular service recommenced. See Long, Journal, pp. 173, 250. Compare with Annual Reports ... of the City of Bangor, for the Year 1861, pp. 4-5, 13 for a more optomistic view on the future of railroads. Hereafter cited as Annual Report of Bangor. Later in the century reports issued by the railroad commissioners and other official sources would be somewhat less optomistic.

[53]Annual Report of Bangor, 1860, p. 12; 1862, pp. 11-12; Maine Farmer, March 27, 1862. Technically the promoters had to put up but $50,000 and even this regulation could have been circumvented. The city would finance most of the operation but would have little direct control of the operations.

aid resulted in a general law which permitted towns to subscribe up to one-twentieth of their assessed valuation for railroad enterprises.[54] The law, coupled with the absence of state aid, kindled renewed interest for a variety of locally-sponsored railroad projects.[55] The Maine Farmer's correspondent in North Anson reported that

> The railroad fever is stronger here than we have seen in any place for a long time .... The Maine Central have made them a very liberal offer .... We advise every farmer to aid in building that road .... Push on the railroad and increase the population, and the wealth of your towns will increase four fold in ten years.[56]

In the largest single proposal Bangoreans voted over whelming approval of a $1,000,000 credit to the European and North American Railway and $15,000 a mile to the Bangor and Piscataquis line.[57]

A general law for the extension of municipal credit to manufacturing corporations seemed the next logical step. The Supreme Judicial Court was to rule otherwise in 1871. More than a dozen special laws passed since the Civil War had allowed individual towns, if two-thirds of the voters approved, to aid manufacturing corporations. Ostensibly this aid was never given to

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[54] Public Laws, 1867, 119:68-69.

[55] A more comprehensive bill, allowing town credit and tax exemptions to any enterprise deemed conducive to the town's prosperity, died in committee. See Maine Farmer, January 24 and February 28, 1867; Senate Documents, 1867, 38:1-2; House Documents, 1867, 120:1-2.

[56] March 7, 1868.

[57] Annual Report of Bangor, 1868, pp. 8-10; Maine Farmer, April 4, 1868. Of 2,263 ballots cast only 108 were in opposition.

particularly benefit private enterprise. Rather such establishments were pictured as instruments whereby the benefit and welfare of the citizens as individuals, the town as a whole, and the state could be promoted.[58]

The Supreme Judicial Court ruled that such a law would be unconstitutional for private property would be taken without just compensation. The objects for which money was raised had to come within the framework of a very narrow definition of "public interest;" such a definition, stated the Court, excluded manufacturing corporations but did include railroads. The Court had applied the brake; its decision was final.[59] Simultaneously caution flags were being raised in the area of local railroad financing. Few paid any heed. People still sincerely believed that once the railroad arrived at their town a new era of unrivaled prosperity would emerge. Publications by John A, Poor and others constantly supplied convincing new data—convincing, at least, to the man on the street. Even public officials were not unmoved by this steady stream of propaganda. The mayor of Auburn, discussing the Lewiston and Auburn Railroad, said: "I deem it the duty of this city to seize upon and improve every opportunity to foster any enterprise that will invite to our midst capital and labor .... We

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[58]For examples see Private and Special Laws, 1867, 396: 359-360; 1869, 203:167-171; 1870, 360:323; 1871, 716:686.

[59]The Maine Farmer applauded the decision. Earlier it had warned that "a business that is not safe for moneyed men, is not safe for towns." Maine Farmer, January 28 and March 4, 1871. House Documents, 1871, 47:1-32, contains the Court's ruling.

should do all in our power to promote this enterprise."[60]

Nevertheless the Maine Farmer continued to warn that certain towns would collapse financially if their particular railroad failed or a general business depression set in. The editor did not oppose all local aid; he approved of a five per cent limitation if it were judiciously managed. What he did fear were special legislative acts that permitted individual towns to extend their credit above and beyond a safe level.[61] This raised the question of responsibility. The editor wondered who would suffer if a railroad failed. He thought unknowledgeable town folk no match for mendacious promoters. He also asserted that many town officials were part of railroad rings—irresponsible men in responsible positions.[62]

A resolve to constitutionally limit municipal railroad debts and to prohibit all others, except for municipal purposes, was presented to the legislature by the 1875 Constitutional Commission. The resolve was a concession to the railroad interests for the Commission had rejected a proposal to eliminate the railroad proviso. The resolve was read, debated, and refused passage. The 1876

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[60] Annual Report ... of the City of Auburn, for the Year 1872, pp. 8-9. Hereafter cited as Annual Report of Auburn. A bond issue was later approved. See Annual Report of Auburn, 1873, pp. 4-5. The Portland and Ogdensburg Railroad Line (Portland: Brown Thurston, 1872) is a fine example of skilfully prepared railroad propaganda.

[61] Maine Farmer, February 17, 1872. For example, Bath had liabilities totalling eighteen per cent of valuation; Bangor, twenty-one per cent; Belfast, twenty-five per cent.

[62] Maine Farmer, February 11, 1871, February 17, 1872, January 24 and October 10, 1874. Also see Annual Report of Bangor, 1873, p. 8 in which Mayor Bass agrees extreme caution is necessary. This warning is echoed in 1876. See Annual Report of Bangor, 1876, p. 8.

legislature referred a similar bill--with a three per cent rather than a five per cent railroad credit proviso--to the 1877 meeting. In that year sufficient votes were secured to overcome determined opposition concentrated in areas still without rail transportation and in cities, such as Bangor, hpoing to become major industrial centers.[63] Intense debate had filled the legislative halls in years past; in 1877 final passage of the amendment was accomplished within a week for a measure which stated that:

> No city or town shall hereafter create any debt or liability, which singly, or in the aggregate, shall exceed five per centum of the last regular valuation of said city or town

with certain necessary exceptions.[64] This Amendment (XXII), challenged but unchanged until 1911, was more restrictive than the bills presented in the two preceding legislatures. Those two had not limited liabilities incurred for strictly municipal purposes; the 1877 resolve technically placed no restrictions on the type of liability but its ceiling of five per cent valuation on total indebtedness virtually eliminated other than municipal expenditures. Till the close of the century towns sought legislative approval of plans to refund their debts--debts incurred primarily in the financing of railroads--whose scheduled repayment could not be met.[65]

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[63] Public Documents, 1875, 16:9; Commission Journal, 1875, pp. 32, 48. Also see Appendices B and H; Senate Journal, 1877, pp. 213, 328-329, 346; Daily Eastern Argus, January 28, 1875; Daily Whig and Courier /Bangor/, January 29, 1875 and H. Walter Leavitt, Some Interesting Phases in the Development of Transportation in Maine (Orono: University of Maine Press, 1940), pp. 49, 75-79.

[64] Resolves, 1877, 279:217; 1877, 292:221-223.

[65] House Documents, 1877, 34:1-2; 1877, 95:1. The 1895 legis-

In official circles the amendment met with general approval. Governor Selden Connor stated the lack of such a restriction had been an "inconsistent limiting of state power." A railroad commissioners' report claimed that the benefits obtained by a majority of the population in most towns had been quite nebulous and most of the loans unjustified. Two decades later Allen Rogers would right that the provision was essential for it guarded the people against themselves.[66]

Would its imposition earlier in the century have changed Maine's railroad map? Jewett would tend to think not, claiming that town purchases of stocks and bonds were quite small in the aggregate. Hatch believes that without such aid and encouragement many present day lines would have appeared on the scene much later if it all.[67] Hatch fails to make one important distinction: necessary rail connections would have been established with or without an amendment whereas many lines in fringe areas would not have appeared, and the successes of dreamers and unethical promoters would have been curtailed.[68]

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lature was unsuccessfully petitioned for an amendment to provide a ten per cent ceiling if the additional five per cent was used to purchase legislatively-approved waterworks. Senate Documents, 1895, 8:1-3 contained no debt limit if waterworks were purchased; 1895, 126:1-3 contained the ten per cent limitation.

[66]Senate Journal, 1876, pp. 44-45; Railroad Commissioners' Report, 1883, p. 3; Rogers, Our System, pp. 546-547.

[67]Jewett, Financial History, pp. 45, 160, 188; Hatch, History, 3:709, 720.

[68]A similar conclusion is reached in Edward Chase Kirkland, Men, Cities, and Transportation: A Study in New England History (2 volumes. Cambridge: Harvard University Press, 1948), 2:316.

CHAPTER III

ELECTION PROCEDURE AND THE FRANCHISE

The related topics of election procedures and the extension or limitation evoked serious public discussion and occupied innumerable hours of legislative time during the nineteenth century. One-sixth of the amendments approved prior to 1900 fall under the above heading as do several nineteenth century proposals that have been incorporated into the constitution during the present century.

I. STATE AND LOCAL ELECTION PROCEDURE

The very first amendment (1834) established electoral procedure for city elections. In 1832 Portland became the first town to obtain city incorporation and Bangor made a similarly successful transition two years later. Methods employed in town elections failed to cover such exigencies as election by wards. Rather than rewrite the section so as to accomodate both towns and cities, a separate paragraph was appended to the section. Other than specifying that electors must vote in their proper wards the amendment was not unlike its town counterpart. Wardens and ward clerks performed functions similar to those of selectmen and town clerks. Local notification of successful candidates remained unchanged. The amendment was designed to implement the smooth transition from town meeting to ward election; when observed, it was effective.[1]

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[1] House Journal, 1834, pp. 288, 307, 321, 332, 336, 343;

The same constitutional section contained a proviso which authorized the legislature to "prescribe a different mode of returning, examining and ascertaining the election" of state representatives if it was deemed necessary. The Civil War provided a golden opportunity. An 1864 amendment, ostensibly for the sole purpose of extending the franchise to soldiers on the battlefield, received swift legislative sanction and solid popular support.[2] Its very provisions, however, demanded some modification in procedure. Military personnel were permitted to vote for state officials as well as the president and vice-president during the quadrennial November presidential election. Normally votes for all state officials were cast on the second Monday of September.[3] Local officials then had ten days in which to notify the successful candidates of their election.[4]

Since the proposed amendment specified that soldier votes were to be tabulated as though they had been cast in the annual state election the ten day limit could not be observed. Two choices presented themselves. Either the ten day rule could be waived until the conflict ceased or the entire procedure could be revised. Two

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Revised Statutes, 1840-1841, pp. 22-23, 4:1:5, p. 41.

[2]See Appendix C; House Journal, 1864, pp. 509-510. Its failure in 1863, asserted Governor Samuel Cony, was due merely to disapproval of form which could not be modified in time. See Public Documents, 1864, 3:22-23. The Maine Farmer, April 2, 1863 hinted that the 1863 bill was buried in committee for less than honorable reasons.

[3]For November elections see Infra, chapter 4, section 2.

[4]Revised Statutes, 1857, p. 28, 4:1:5, pp. 51-53.

reasons seem apparent for the implementation of the latter; one, uniformity of procedure; the other a further check against fraud and corruption. The vast amount of statutory law enacted in the first forty-five years of Maine's statehood indicates that many communities—small towns and plantations in particular—ignored correct procedure. In some cases it was simply ignorance; in others, a complete lack of concern.[5] It was a rare year indeed that did not see several election cases referred to the legislature with the remonstrants claiming that ballot counting was not performed openly and that notification of successful candidates was made in a manner devious and underhanded.[6]

Under the tenth amendment all municipal officers lost their returning power. Although ballots were still counted locally the results were forwarded to the office of the secretary of state at least one month prior to the commencement of the January session. Within ten days thereafter the governor and council were to examine the returns and issue a summons to all those appearing to be elected. As a further check "all such lists shall be laid before the house

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[5] Many small communities did not even bother to hold elections. Early statutes provided penalties for such omission. See Public Laws, 1822, 187:878; 1830, 472:1251-1252. Even on returns for state officials errors and omissions were frequent. Legislative committees annually reported procedural irregularities. In particular see Senate Journal, 1855, pp. 11-12 where the committee discusses the ultimate implications of continued errors of commission and omission.

[6] For but three of many examples see House Documents, 1837, 7:1-3; 1849, 5:1-47; 1859, 1:1-15. This amendment also eliminated the necessity of a meeting of representatives from towns classed together for purposes of representation in which they combined the votes of the various communities within the district to determine the winning representative.

of representatives ... and they shall finally determine who are elected." This was the same procedure that had always finally determined successful senatorial candidates.[7]

A further attempt to regulate elections is found in an 1869 amendment which reads:

> The legislature may by law authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting districts for the election of representatives to the legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.[8]

It was the usual practice of the legislature, when incorporating a city, to establish a definite number of voting districts which only could be changed with popular approval.[9] Now towns with a population in excess of 4,000 could be similarly regulated. No longer need a single polling place be swamped with voters; lessened was the possibility of multiple-balloting in a town where ill-defined or ill-observed districts of residence could be circumvented. People residing on islands or other relatively inaccessible places could exercise their right of franchise less hazardously.[10]

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[7]Compare Revised Statutes, 1871, p. 28, 4:1:5, p. 29, 4:2:3-5, and pp. 50-52. Also see Rogers, Our System, p. 494; Public Laws, 1864, 278:209-213. See House Documents, 1866, 57:1-3 for a successful application of this rule in a contested election case. In 1880 and 1881 unsuccessful attempts were made to restore municipal certification of state representatives. See Appendix C.

[8]Revised Statutes, 1871, p. 54. In 1919 the forty-six amendment made this provision applicable to all towns.

[9]Revised Statutes, 1871, p. 84, 3:24.

[10]See Appendix C; House Journal, 1869, pp. 334, 346, 354; Senate Journal, 1869, pp. 328-337; Resolves, 1869, 91:35-36; Rogers,

In the final legislative session of the nineteenth century three amendments reflective of a more modern era were introduced. In each case the committee considering such legislation reported that action was inexpedient. All were enacted by 1955. The discussion of direct election of United States senators had been prompted by the receipt of a North Dakota legislative resolution urging such action.[11] In 1935 the legislature passed an amendment approving the use of voting machines at all elections if the right of secret ballot was not impaired.[12] Twenty years later the governor no longer had to be a "natural born citizen of the United States;" if otherwise qualified fifteen years citizenship would suffice.[13]

II. EXTENSION OF THE SUFFRAGE

Suffrage and suffrage requirement were a topic at many a nineteenth century legislative session. The most extensive battle had not been won by the turn of the century. Twice thereafter state amendments were defeated at the polls and only with the passage of the nineteenth amendment to the federal constitution did women receive the elective franchise in Maine.[14] Suffrage without regard

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Our System, p. 543. 2,809 ballots were cast for Amendment XII; 2,377 against. See Senate Journal, 1870, p. 40.

[11] Senate Journal, 1899, p. 222. Amendment XVII (1913) of the federal constitution established direct election of senators.

[12] Resolves, 1935, 110:665-666.

[13] Resolves, 1955, 100:1001.

[14] Hatch, History, 3:721.

to sex was at least mentioned in all but four or five post-Civil War legislative meetings. Part of the strategy used by advocates of prohibition was adopted by the suffragists. Hundreds of multi-signatured petitions flooded the legislature. Female suffrage orators sought and obtained permission to use the legislative halls for public addresses. Carefully prepared letters to the editor appeared frequently. But lacking a broad base of appeal and unable to stir up a feeling of moral righteousness among the population, female suffrage languished while prohibition was being incorporated into the constitution.[15]

The immediate objective of the petitioners varied. An 1859 committee was ordered to examine the expediency of equal voting rights for women possessing taxable property. In 1868 the same committee deliberated over suffrage to "sole women."[16] Certain legislatures were petitioned for complete and entire female suffrage, others for suffrage just in presidential elections or on the state level, and still others for equal voting rights in municipal contests only. Many petitioners got one foot in the door; it was always slammed shut, however, before victory was attained.[17]

At first most legislators refused to take the petitioners seriously. Petitions were referred to committees; little positive action resulted. The Maine Farmer records one instance where a petition for female suffrage was referred to the committee concerned with name changes. Another representative, apparently horror-struck,

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[15]See Appendices C and G; House Journal, 1887, p. 92.

[16]Maine Farmer, January 20, 1859; House Journal, 1868, p.200.

demanded that serious consideration be given the petitioners. Then, among gales of laughter, he recited the following stanza:

> Yes, let them meet us at the polls
> Though dressed in gown and jacket,
> If they can stand our sordid souls,
> We'll try and stand the racket.

The editor of the Maine Farmer, less jovial, requested that his readers give thoughtful consideration to the petitioners; to this end he supplied a resume of the petitioners' arguments. In an age of free thought all wish to improve politics and to increase the "purity and morality" of the franchise, and is this not the stronghold of women? Women should be given the ballot so that they might appreciate its value and "obtain a character as a human being and a citizen." Voting without regard to sex would insure great social reforms affecting women.

The editor proceeded to analyze the assertions. He stated that in the abstract the claim that a woman had a right to vote on account of her humanity could not be denied.[19] Yet practical

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[17] See Appendix C.

[18] February 10, 1872. The senators of 1872 must have been a more serious lot. They gave the necessary two-thirds approval for a suffrage resolve and adhered to their previous vote by an 18-4 margin. It is unlikely that such a bill would have received popular support if presented as an amendment. See House Journal, 1872, pp. 337-338, 344-345; House Documents, 1872, 84:1-2. On May 20, 1871 the editor of the Maine Farmer wrote that there were few women desirous of political rights.

[19] A woman was "human" because she was a person, a citizen, and often a property holder and a taxpayer. The editor reminded his readers that many female suffragists were attempting to capitalize on the spirit that engendered equal rights for Negroes. See Maine Farmer, February 10, 1872.

considerations should outweigh the aspirations of zealots. If the suffragists succeeded it "would probably promote family discord [and] increase the number of divorces." Thus, the editor concluded, "politics ... appears thus far to be stubbornly if not incorrigibly masculine."[20]

Official support for female suffrage was spotty. Until the twentieth century only two governors discussed it in their inaugural addresses.[21] The opposition, even after the fairly close call in 1872, was slow to crystallize. Eventually, however, fewer and fewer males were petitioning for female suffrage; remonstrances of women opposed to it became infrequent.[22] Had a majority vote been sufficient for legislative approval of resolves the people of Maine would have voted on equal political rights for women in 1887. That year both houses failed to secure two-thirds approval on final passage though more than half the legislators desired passage of the

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[20] Maine Farmer, February 13, 1869. April 23, 1870 and May 20, 1871 issues of the same newspaper reveal that editorial policy was inching toward complete support of women's political rights.

[21] Both Nelson Dingley, jr. and Frederick Robie endorsed the proposal. Dingley had supported women's rights as a member of the lower house. "Intelligence of the citizen," said Governor Robie, "is the only true basis of suffrage, and if equality is assured, let us not ignore its logical consequences, but give to women all the rights of citizenship." See Senate Journal, 1875, p. 41; 1883, p. 49; 1885, p. 66. Also see House Documents, 1873, 47:2-5; Daily Eastern Argus, February 1, 1875. Only two of the ten members of the Constitutional Commission supported the idea. See Commission Journal, 1875, p. 41.

[22] For but two examples of this see House Journal, 1887, pp. 97, 106, 113, 336, 350, 360, 474; Senate Journal, 1889, pp. 115, 130-131, 158, 162, 184, 206, 211, 222-223.

measure.[23] By 1900 suffragists could claim little. Other than the right of women to practice law and to serve as school supervisors equal rights advocates could point to no tangible victories.[24]

Two other groups--paupers and Indians--long disenfranchised had not received the ballot by 1900. Fifty-three years later the restriction on Maine's original inhabitants was abolished.[25] Pauper disabilities still remain in the constitution and the statutes. Non-taxation of Indians was offered as a reason for their nonenfranchisement and the refusal of the legislature to seriously consider the question.[26] The Indians were pictured as friendly but inferior beings who might one day reach the "plane of common civilization." Reports issued by the Indian agents did little to change this view; it would not be entirely incorrect to say that the agents helped paint the original picture. "There are unmistakable indications," wrote the agent at Oldtown, "that the people to which this tribe belong do not possess the high order of intellect that distinguish the European race."[27]

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[23]This is not to imply that all who so voted favored the principle of female suffrage. Some, no doubt, wished a permanent settlement of the issue through a popular ballot. See House Journal, 1887, pp. 497-499, 534-535. Also see Appendix C.

[24]Public Laws, 1881, 27:20; 1889, 98:108.

[25]Resolves, 1953, 97:928.

[26]See Appendix C.

[27]Report of the Agent of the Penobscot Tribe of Indians, for the Year 1861, p. 10. Hereafter cited as Penobscot Indian Agent's Report. Among the indications of innate inferiority was an unalphabetizable language. See Resolves, 1857, p. 101 which compares the political rights of Indians and Negroes.

The Civil War engendered the only sustained attempt to lift pauper restrictions. Many permanently-disabled veterans were entirely dependent on town funds; others, receiving only small pensions, had to make some claim on their communities. As such they could not vote in state elections. Most petitioners do not seem to have advocated elimination of all such restrictions. Rather they requested that pauperage as such should not be a disability; or they asked that in certain cases papuers be enfranchised. All their efforts were to no avail: the legislators remained unmoved; the constitution, unchanged.[28]

The nineteenth century saw two attempts--prior to the Civil War--to eliminate the three month residence requirement on voting when a qualified elector moved to another part of the state within three months of an election.[29] Amendment XLIV (1919) finally secured the desired legislation. A person otherwise qualified "in the town or plantation where his residence is so established ... shall continue to be an elector in such town or plantation for the period of three months after his removal therefrom if he continues to reside in this state during said period."[30]

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[28]See Appendix C; House Journal, 1881, pp. 316-317, 335; Rogers, Our System, pp. 480-481. An attempt to enfranchise paupers failed to pass during the debates of the Constitutional Commission of 1875. See Commission Journal, 1875, p. 20.

[29]Residence requirement for state elections were increased to six months by a 1935 amendment. For amendment LXII see Resolves, 1935, 81:648-649.

[30]Resolves, 1919, 108:606-608. Also see Appendix C.

III. LIMITATION OF THE FRANCHISE

During the Civil War, a focal point for several proposed constitutional amendments, the Maine legislature passed the previously-discussed soldier's vote amendment.[31] Resolves introduced in the succeeding legislature (1865) proposed to disenfranchise deserters and draft-dodgers. Of the former suffice it to say that it ensured the franchise for soldiers in the Union camp. Elaborate election procedures on the field were included to prevent attempts at fraud and to avoid the possibility of disenfranchisement over matters of battlefield interpretation. The election did take place and no serious incidents arose.[32]

Governors Samuel Cony and Joshua Chamberlain, the latter a general in the Civil War, urged passage of legislation affecting draft-dodgers ("skedaddlers") and deserters. Even the latter's carefully chosen words could not muster the necessary two-thirds approval.[33] Reluctance to heed the governors' advice arose from

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[31] Supra, chapter 3, part 1.

[32] Senate Journal, 1863, pp. 15-16; 1865, p. 29; and Public Documents, 1864, 3:22-23 contain the gubernatorial statements. One sample: It is but "an act of justice ... to those who have, in the spirit of the loftiest patriotism, encountered voluntarily the deadliest perils." (Governor Cony, 1865). Compare the original proposals, House Documents, 1863, 9:1-2 and Senate Documents, 1864, 22:1-9 and 1864, 27:1-12 with the resolve as finally passed, Public Laws, 1864, 278:209-213. Also see Rogers, Our System, pp. 482-483, 487. The soldier vote was as follows: For president, Abraham Lincoln, 4,174; George McClellan, 738, and for governor, Samuel Cony, 3,054; Joseph Howard, 116. See Annual Register of Maine, 1865, pp. 153, 169.

[33] Cony attacked such men and recommended permanent disen-

two sources: one being certain Democrats who had never wholeheartedly supported the war effort; the second, other legislators unwilling to subscribe to the harsh penalties demanded by the sponsors of the bill. Perhaps others wished to await Congressional deliberations on a similar bill.[34] Whatever the reasons the bill was refused passage in both chambers as was a further attempt made in 1867 in which it was proposed that anyone claiming the right to vote would have to swear that he had neither aided or abetted the Confederacy nor avoided legitimate military service. Refusal was tantamount to permanent loss of suffrage.[35] By 1867, however, most legislators were more concerned with the domestic progress of the state and the disenfranchisement bill was lost in a maze of legislation.

The above was the second major attempt, chronologically speaking, to restrict the franchise. Nativist hegemony had had temporary success in 1855; in the 1890's a similar movement would succeed in establishing an educational qualification for voters. The pre-Civil War efforts involved no constitutional change; as such, one bill regulating the suffrage was at best extra-constitutional.

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franchisement and loss of citizenship. Chamberlain made no specific suggestions; he just wondered "whether it is sound policy to permit acts so unworthy of a citizen to go unrebuked, and treason so overt to escape odium." See Senate Journal, 1865, p. 27; 1867, p. 26.

[34]Such a bill was enacted but it did not affect state and local elections. See Annual Report of the Attorney General of the State of Maine, for the year 1865, pp. 3-4. Hereafter cited as Attorney General's Report,

[35]See Appendix C. The Maine Farmer, October 26, 1865 noted with approval that two Detroit "skedaddlers" had received three months at hard labor, dishonorable discharge, and permanent loss of suffrage.

Anson P. Morrill, successful Maine Law-Know-Nothing gubernatorial candidate, in his 1855 inaugural address, had denounced what he claimed were gross violations of both the spirit and the letter of the naturalization laws. Most recent immigrants, "degraded ... by the vices of monarchical institutions " were entirely unacquainted with democratic government and incapable of effectively exercising the sacred right of the ballot. While making no direct recommendations his inferences were perfectly clear.[36]

Once presented, swift passage was accorded a bill requiring all foreign-born voters to register their naturalization papers three months before an election. Frank L. Byrne, recent biographer of Neal Dow, has suggested that Dow himself may have instigated the bill as it would prevent the addition of names to the voting lists before the April mayoralty contest in Portland—an election Dow strove desperately to win to bolster the sagging fortunes of prohibition.[37] Two factors substantiate Byrne's suggestion. Had the bill been introduced earlier in the session its passage would have been just as swift but final passage late in the session—on St. Patrick's Day, ironically—affected all spring elections. The bill required naturalized citizens to register once; if unchallenged, their names

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[36]Resolves, 1855, p. 279. Compare this with Democratic governor Wells in 1856, Public Documents, 1856, 4:12-13.

[37]Dow squeaked by with a forty-seven vote majority over the combined anti-Maine Law and Democratic opposition referred to as the forces of "Rum, Hunkerism, Catholicism and Corruption." Compare Frank L. Byrne, Prophet of Prohibition: Neal Dow and His Crusade (Madison: The State Historical Society of Wisconsin for the Department of History, University of Wisconsin, 1961), pp. 58-59 with Neal Dow, The Reminiscences of Neal Dow: Recollections of Eighty Years

remained on the voting register unless their residence changed or they were otherwise disqualified. Everything else being equal, therefore, the full effect of the bill would be temporary.[38]

Realizing this, perhaps, steamroller tactics paved the way for a bill annulling the naturalization power of all but federal courts within the state. Advocates stated that instant citizenship was widespread; this was denied by a small band of Democrats who were unable, however, to organize an opposition sufficient to defeat the measure.[39] Had not both these measures been repealed within a twelvemonth Maine's voting rolls would have remained rather constant. As it was the Democrats bided their time, saw a Democratic governor elected by the 1856 legislature, and proceeded to promptly repeal both statutes.[40]

Certainly part of the support for an educational test for voters originated in the anti-foreign feeling current in late nineteenth century Maine. Others believed that the ability to read and write, regardless of national origin, was a prerequisite to a comprehension of public affairs sufficient to cast an intelligent

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(Portland: Evening Express Publishing Co., 1898), p. 527.

[38] House Journal, 1855, pp. 318-319; Public Laws, 1855, 188:222-223.

[39] Public Laws, 1855, 176:204; Hatch, History, 2:283. For these two laws a Know-Nothing-Whig-Republican-Maine Law coalition was effected. A less severe 1893 law limited naturalization jurisdiction to the supreme judicial and superior courts. See Public Laws, 1893, 310:375. There are evidences of some naturalization chicanery but certainly not to the extent claimed by Morrill. A more moderate law would have better solved the problem.

[40] Public Laws, 1856, 190:227, 1856, 191:227.

ballot.[41] The 1891 legislative session produced an amendment limiting the suffrage and the right to hold public office to those able to read the constitution in the English language and write their name.[42] Vociferous protests by the French in Aroostook County and an attempt to resubmit the question came to naught. Whether popular government truly became more responsible and more intelligent as the result of such legislation is debatable.[43]

IV. BRIBERY AND THE BALLOT

Non-payment of taxes and bribery at elections are two additional matters related to suffrage and the constitution. An amendment requiring payment of a poll tax as a voting prerequisite was

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[41] See Appendix C. Primarily a post-Civil War issue, educational tests had received only scattered support until 1891. Originally opposed to the law, the Maine Farmer claimed that the most intelligent citizens often had the least "book-learning" and that the best way to inculcate respect for democracy was to allow full suffrage to all persons otherwise qualified. Later the editors came full circle and denounced the machinations of corrupt politicians and naturalization mills and demanded such a test. Compare Maine Farmer, February 27, 1869, and May 15, 1875.

[42] Exceptions were made for those with physical disabilities, all those previously enfranchised, and all over the age of sixty. See Resolves, 1891, 109:102-103; Senate Documents, 1891, 210:1-3. An 1893 statute guarded against prior memorization of the constitution. See Public Laws, 1893, 173:193-194. The popular vote was 27,775—18,061. See House Journal, 1893, pp. 14-15.

[43] See Appendix C. Also see Senate Journal, 1895, p. 43 in which the governor defends the measure on th basis of a more intelligent electorate. This is also the view expressed in James Quayle Dealey, Growth of American State Constitutions (Boston: Ginn and Co., 1915), pp. 150-151 and Rogers, Our System, pp. 478-479, 483. For action on resubmission of the amendment to the voters see Senate Journal, 1895, pp. 233, 614-615, 669.

submitted to and defeated by the people in 1877. The subject was not broached again.[44] Bribery had long been a part of Maine elections; its inclusion in the constitution was primarily an attempt to impress upon the people the seriousness of such activity. It was thought that the people had more respect for the supreme law of the state than for statutes enacted by a small group of men at Augusta.

The public statutes on election bribery had changed little over the years. Persons so convicted could be fined or imprisoned, or both; in all cases they were ineligible to any state office for ten years.[45] This seemed to have little real effect upon illegal election activities. Lack of enforcement negated total effectiveness; general public apathy reduced it still further. To say that bribery was an integral part of some Maine elections might be unwise, yet its frequency would give support to such a contention. Charges and countercharges were hurled but the facts were rarely impartially brought before the public. Certain contested election cases did receive legislative attention; if the bribes were blatantly offered, and the people concerned of the wrong political stripe or ineffective politically, a major investigation might be launched.[46]

Yet never before the 1875 Constitutional Commission's resolve

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[44]See Appendix C; Resolves, 1877, 280:217; 1877, 292:221-223.

[45]Compare Revised Statutes, 1840-1841, p. 71, 6:66; Revised Statutes, 1857, p. 84, 4:64; and Revised Statutes, 1871, p. 104, 4:67.

[46]For two examples see Senate Documents, 1859, 8:1-40 and Resolves, 1878, 93:35. Both were concerned with Aroostook County.

had bribery been mentioned as a constitutional amendment. Once presented to the legislature, however, however, it created a furor that rocked the Augustan halls. The Commission had suggested that if bribery in any form was suspected a potential voter could be challenged and required to swear his innocence. It was assumed that a refusal to do so would be an implied admission of guilt. And if such guilt was established the offender could lose his voting privileges for life. The original resolve acquired initial approval in the lower house but there was severe opposition in the Senate. Senator George Cutler claimed that it would be an unconstitutional infringement upon the right to vote and if it were enacted the whole criminal code should be incorporated into the constitution. L. A. Emery of Ellsworth envisioned political misuse of the amendment. "Honorable men," he thought, would be challenged by "low people in league with the opposition party." Charles Haskell, a Democrat, retorted that the "purity of the ballot was of far greater importance than the ballot itself."[47]

Most Republican journals were silent on this amendment. One exception was the Portland Daily Advertiser which wondered if the brief legislative summaries provided in other newspapers did justice to the debates. When Senator John Swazey asserted that the ballot was pure did he not "turn round to the chamber with a derisive smile?" And when Senator Haskell suggested that only "naughty people" in other states were engaged in such nefarious activities

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[47]Daily Eastern Argus, February 20, 1875.

did he not "place his thumb against his nose and securing that feature for a fulcrum, vigorously twiddle all the fingers of his right hand?"[48]

The Democratic Daily Eastern Argus inquired whether the senators approved of bribery and demanded that the people be given an opportunity to express their opinion at the polls. Four days later the Argus answered its own question. A headline proclaimed that "The Republican Ring Leaders of Maine have Put Themselves on Record as in Favor of Bribery at Elections!!!" by refusing to pass an amendment designed to "Extirpate, Root and Branch, the Infamous Traffic in One of the Most Sacred Rights and Duties of the Citizen."[49]

Portions of the proposed amendment were delated and other sections amended over the ensuing two weeks until joint approval was given a measure bearing little resemblence to the original proposal.[50] The amended form read:

> The legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election under the influence of a bribe.[51]

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[48]February 22, 1875. Compare with Daily Eastern Argus, February 22, 1875. The same issue of the Advertiser reprinted an article from an 1872 issue involving open bribery. The retort of a citizen who both parties desired to bribe was: "That's right, bid up, gentlemen. I'm in the market. I don't care a cuss for either candidate. I shall vote for the one that pays the best."

[49]February 19 and 22, 1875. See also Maine Standard, February 19, 1875.

[50]See Appendix H; Senate Journal, 1875, pp. 264, 284-285, 300,

Compare this with the original:

> The legislature, at the session thereof next after the adoption of this section, shall, and from time to time thereafter may, enact laws excluding from the right of suffrage perpetually, or for a term of years, all persons convicted of bribery at any election, or of voting at any election under the influence of a bribe.[52]

The first section of the original resolve (not quoted) which had painstakingly defined the word bribery and provided for voter challenge was erased. The sting was taken out of the second section. No longer was the legislature required to enact such legislation. "May" replaced "shall" and disenfranchisement was limited to ten years.

Yet the Argus's statement that the senators approved of bribery was unjustified. Certainly bribery existed. Certainly many senators were unwilling to accept the measure even after House passage was assured. Just as certainly most were motivated by a genuine concern for civil liberties. Local political bosses and their lackeys, the senators believed, could challenge the "average" voter and infringe upon his right to cast a ballot. Others thought lifetime suspension too harsh.[53] Once the furor had subsided most journals labeled it a step in the right direction and urged passage

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346-347, 384; House Journal, 1875, pp. 238-241, 263, 289-290, 307.

[51]Resolves, 1875, 97:33. Also see Senate Journal, 1875, pp. 284-285.

[52]Public Documents, 1875, 16:2-3; Commission Journal, 1875, pp. 32, 33, 50.

[53]Portland Daily Press, February 17, 1875; Daily Eastern Argus, February 20, 1875; House Journal, 1875, p. 240.

in the September election.[54]

Governor Selden Connor was confident that the legislature would enact a more stringent law as permitted (but not required) by the new amendment. He urged the 1876 legislature to do do if for no other reason than to "place a stigma" upon bribery and "to denote the just resentment by the sovereign people of a grevious insult to their dignity." A resolve was presented but it received scant consideration. Connor's successor, Dr. Alonzo Gareclon, fumed at this inaction. He strongly suggested that the legislators submit the original amendment proposed by the Constitutional Commission to the people. Again the legislature politely ignored the request and with that bribery as a constitutional concern settled into oblivion.[55]

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[54]Aroostook Times [Houlton], March 4, 1875; Portland Transcript, August 28, 1875.

[55]Senate Journal, 1876, pp. 43-44; Senate Journal, 1879, p. 31; House Documents, 1876,,135:1-2.

CHAPTER IV

TIME AND FREQUENCY OF STATE ELECTIONS AND LEGISLATIVE SESSIONS

The time and the frequency of state elections and legislative sessions, as well as the physical location of the meetings, form a complementary series of oft-proposed constitutional changes, only two of which were not accomplished by the final session of the nineteenth century. The permanent establishment of the state capital at Augusta would come in 1911. Conformity of state and national election dates was achieved only in 1957. One amendment incorporated into the constitution in the nineteenth century (biennial as opposed to annual sessions) has come under increasing criticism in recent years.

I. WINTER SESSIONS OR SUMMER SESSIONS?

The efficacy of January sessions will receive first consideration. As early as 1826 the committe of the judiciary had examined the feasibility of a session commencing on the last Wednesday of May as was the practice in Massachusetts.[1] Within a dozen years efforts to secure summer sessions were in high gear. A flood of reasons were

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[1]The second Wednesday of May was the date finally selected. Other suggestions included the third Wednesday of August, Senate Journal, 1832, pp. 101-102; 1834, 99:100; the second Monday of March, Maine Farmer, February 7, 1834; the first Wednesday of September, Senate Documents, 1837, 34:1-4; House Documents, 1839, 19:3-4; the first Wednesday of June, Senate Documents, 1843, 28:5-6. Also see House Journal, 1826, p. 164.

presented; all very appealing at first glance. Legislative sessions three weeks to a month shorter could not help but occur. "Members would come together with habits of industry, and a feeling that this is not a season in which to indulge in indolence."[2] Longer daily sessions—a natural result of the longer summer days—would reduce the number of working days. Committee reports could be prepared more swiftly and more efficiently. Delays occasioned by snow would be eliminated; by otherwise inclement weather, minimized; by transportation failure, drastically reduced.

Expenses would be substantially reduced both for the legislature and the individual legislator. Remuneration was still per diem thus the payroll would shrink by at least one-fourth. Other legislative costs would decrease even more. Reduced-time savings would be one factor; the other, the fact that the basic cost of services and supplies declined in the summertime. The cost of fuel and lights would be minimal. The services of several attendants constantly needed in the cold, dark winters could be eliminated. The representatives would obtain room and board more reasonably; travelling expenses would be slashed; and, a point often emphasized, the "convenience and comfort" of the members would be enhanced. The support of unmarried men was actively solicited. A correspondent of the Maine Farmer somewhat facetiously wrote that to bachelors the opportunity of moonlight walks with pretty girls was emphasized. Of course there would be "discoursing all the time in the beautiful,

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[2]See Senate Documents, 1834, 13:1-7.

significant and odorous 'language of flowers.'"[3]

The consequences of such a change to the farming interests could not be ignored. Those plumping for an early May session could and did claim that it would be a time of comparative leisure for the agriculturist. Advocates of March or late summer meetings agreed but some hinted that this leisure might prolong the session. If the farmer were pressed for time he would see that the business of the legislature was quickly completed without loss of efficiency. Proponents of late spring meetings did not agree. It was their contention that the farmer would simply not run for office allowing pettifoggers and loafers to usurp the legislative power by default.[4]

The desired change was finally accomplished in 1844 after much debate and amendment. The state officers elected in September of 1844 would serve from the first Wednesday of January, 1845 until the second Wednesday of May 1846 and thereafter the annual term of service would run from May until May the succeeding year.[5] That the

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[3]Maine Farmer, March 5, 1842.

[4]The material in this and the preceding two paragraphs has been selected from committee reports, gubernatorial addresses, and newspapers. See Senate Documents, 1834, 13:1-7; 1837, 34:1-4; Public Documents, 1842, 8:15-16; 1843, 3:12; 1844, 3:15; Maine Farmer, February 7, 1834, February 8, 1840, and March 5, 1842. See Maine Farmer, March 4, 1843, for an analysis of the composition of the then current legislature showing farmers to be proportionately under-represented although they formed the largest single occupational interest.

[5]See Appendix D; House Journal, 1844, pp. 344, 432-433, 494, 534-544, 562, 563, 576, 602, 635-640, 772; Senate Journal, 1844, pp. 212-213, 273, 383, 389-390, 393-394, 427, 484. Compare the original draft, Senate Documents, 1844, 16:3 with the amended resolve, Resolves, 1844, 281:304-305. Also see Resolves, 1845, 366:403-404.

TABLE III

COMPARATIVE STATE EXPENDITURES: 1842-1852

Year	Senate Payroll	House Payroll	Clerks	Council Payroll	Printing	Fuel, Lights	Other Salaries
1842	$ 7,321.	$40,459.	$2,658.	$ 2,708.	$ 1,500.	$ 800.	$24,969.
1843	6,474.	25,607.	2,675.	2,476.	2,048.	1,000.	29,208.
1844	6,491.	26,424.	2,600.	2,500.	1,051.	700.	21,462.
1845	7,988.	31,809.	3,044.	3,778.	3,138.	400.	28,607.
1846	7,441.	30,355.	2,701.	2,411.	2,739.	300.	22,587.
1847	6,981.	28,695.	2,425.	3,380.	2,503.	200.	23,603.
1848	7,764.	31,927.	2,595.	3,191.	2,000.	500.	25,366.
1849	8,123.	33,567.	2,800.	3,439.	1,002.	800.	25,163.
1850	9,246.	38,730.	3,705.	3,554.	2,000.	300.	24,557.
1851-1852	11,201.	46,866.	6,559.	5,824.	3,000.	1,200.	41,637.

All figures rounded off to nearest dollar.

much-heralded benefits had not materialized was legislatively acknowledged when the 1848 lawmakers appointed a committee to examine a return to January sessions. Governor John Dana made a direct admission the following year. The meeting "is at a time when the private engagements of all classes are most pressing, and it has failed to secure any corresponding public benefit."[6] Two years later both the public and the legislators repealed the fifth amendment. An examination of both the length of the sessions (see Table VII) and a comparison of annual expenditures (see Table III) reveals that neither time nor money was conserved. That the young ladies promenaded with the legislators in the daytime as well cannot be completely dismissed. The new arrangements had proved inconvenient for the farmers and once returned to January, discussion over the time of the session ceased.[7]

II. NOVEMBER STATE ELECTIONS

The anomaly of separate dates for state and for national elections caused little concern prior to the Civil War.[8] For two

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[6]Public Documents, 1849, 5:14.

[7]House Journal, 1850, pp. 430, 438, 448; Senate Journal, 1850, pp. 398-399, 402, 406, 437, 442-443, 447; Resolves, 1850, 274:242-243; 1851, 347:331-332; Hatch, History, 2:353-354; Maine Farmer, March 5, 1842 and August 5, 1847.

[8]Advocates of summer sessions had proposed a change from September to either February, May, or June. November was not a logical choice and was not mentioned in connection with summer sessions. See House Documents, 1839, 19:3-4; Senate Documents, 1834, 13:1-7; 1843, 28:5-6.

decades thereafter (1870-1890) it was a burning issue. Eclipsed at times by matters of more immediate concern it would raise its head again and again until 1957 when state elections were finally changed to the Tuesday following the first Monday of November.[9]

Assertions that the 1875 legislature was being influenced politically waxed vociferous when the two chambers voted down a constitutional commission resolve to accomplish the same. Proponents of November elections argued that it would avoid a needless duplication of elections every fourth year. Governor Sidney Perham, a Republican, had voiced his opinion that November elections would result in a fuller expression of the popular will. The September date forced the holding of caucuses and conventions at a time when farming interests were often unable to directly participate. And more importantly, suggested the Democrats, it would prevent outside money from entering the state to influence elections.[10]

The saying "as goes Maine so goes the Union" had prompted the national political organizations, especially the Republican, to pour money and prominent speakers into Maine when presidential electors were chosen. The Portland Daily Advertiser noted that the whole vote was much smaller in November but the margin of victory was expanded over the results of the September instalment during presidential years. A Boston paper, the Herald, reported that an

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[9] Resolves, 1957, 94:1030-1031

[10] House Journal, 1871, p. 32; 1873, pp. 34-35; Daily Eastern Argus, February 18, 1875; Portland Transcript, February 13, 1875; Commission Journal, 1875, pp. 11, 51-52; Public Documents, 1875, 16:3.

amendment was being offered to a federal standardized election bill which would enable Maine to retain its September election date and to "give a rousing majority for Mr. Blaine, by way of a send-off, should he happen to be a candidate for the presidency."[11]

The state amendment received little overt opposition but was summarily killed. Here the charge that political influence was employed to persuade the Republican majority to destroy undesired legislation is valid. The voting record reveals that a single Republican senator and less than a sixth of the Republican representatives voted affirmatively, while Democrats gave it almost unanimous support. It cannot be claimed that James G. Blaine was above such a maneuver. He was at best an amoral politician, delighted to obtain political power and prestige. There is little doubt that pressure was applied to hesitant or recalcitrant members to insure party solidarity.[12] Though introduced at several subsequent sessions the proposal generated little support and finally disappeared from

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[11]Quoted by the Maine Standard, February 12, 1875. Also see Portland Daily Advertiser, January 22, 1875. As one example of the September-November election differential, in 1872 Piscataquis county gave Republican gubernatorial candidate Sidney Perham 1,955 votes and his Democratic opponent, Charles Kimball, 1,176. In the November presidential balloting Ulysses Grant received 1,718 votes and Horace Greeley but 608. Thus 568 less ballots were cast in November but the Republican party increased its margin of voctory some 391 votes (or from 62.4 per cent to 73.9 per cent of the total vote).

[12]See Appendix H. Compare Charles Edward Russell, Blaine of Maine: His Life and Times (New York: Cosmopolitan Book Co., 1926), pp. 432-433, a highly critical study of Blaine with the more balanced David Saville Muzzey, James G. Blaine: A Political Idol of Other Days (New York: Dodd, Mead and Co., 1934), pp. 496-499. Also see Aroostook Times, February 26, 1875 for an article copied from the Belfast Journal.

the legislative calendar for the balance of the nineteenth century.[13]

III. BIENNIAL SESSIONS AND ELECTIONS

In 1841 Maine voters rejected a biennial session amendment by a decisive 9,004—27,250 mark. Four decades later Harris M. Plaisted would serve the first biennial gubernatorial term. The interim did not lack strong efforts by supporters and opponents alike. Proponents of biennial sessions offered certain underlying reasons year after year. Economy, dear to the heart of the New Englander, was the number one consideration. By the 1870's estimates of biennial session and election savings ranged from $50,000 to $200,000. The assertion that one biennial session would be no longer than two annual sessions at first rested solely on the argument that legislative organization encompassed a goodly portion of the session. Once the legislators' salary was changed from a per diem basis to a straight salary the suggestion that their "disposition to go home, which grows strong by the middle of March" assumed added credibility.[14]

Biennial sessions would avoid excessive changes in the public statutes; less time would be devoted to "crank" schemes and petitions. "The history of the State and country show that the tendency is to

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[13]See Appendix D. The final nineteenth century attempt was a compromise seriously suggested by Governor Edwin Burleigh in 1889. He proposed that all elections—state and national—be held on the second Tuesday of October when crops were harvested and clement weather still prevailed. See Senate Journal, 1889, pp. 34-35.

[14]House Documents, 1859, 2:3; Resolves, 1842, 73:61-62; Maine Farmer, March 8, 1873 and March 6, 1875.

too much legislation," asserted Governor Sidney Perham.[15] The Maine Farmer agreed and while supporting the principle of biennial sessions wondered if annual sessions were not a necessity so long as hazy general incorporation laws of limited applicability forced many of those willing to organize under a general statute and permitted those seeking unjustifiable special privileges to enter the legislative halls for a charter.[16] Political maturity of the electorate rendered annual meetings unnecessary, said others. Was the respect for the law and its officers weakened by frequent changes? Did annual political campaigns have a demoralizing effect? Governor Chamberlain thought so and reiterated his position before the legislature. "Anarchy costs far more to any people than good government," the Kennebec Journal would retort to a similar claim several years later.[17]

Sincere advocates of annual sessions based their defense upon honesty, responsibility, and necessity. One year terms guarded against prolonged financial irregularities; corruption's tainted temptations would be less alluring. There could not be but "a more

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[15] House Journal, 1871, pp. 31-32.

[16] January 7 and 14, 1871; House Journal, 1873, pp. 34-35; Portland Daily Advertiser, February 17, 1875. Biennial elections were usually assumed as a logical complement to biennial sessions.

[17] Senate Journal, 1869, p. 35; Daily Kennebec Journal, January 28, 1875. The Kennebec Journal was the official state printer and a Democratic rival mused that "of course the question of saving legislative printing would not effect or influence the Journal, or would it?" (italics added). See Maine Standard, February 5, 1875. For other defenses of biennial sessions see House Documents, 1841, 27:3-6; Resolves, 1841, pp. 558-559; Senate Documents, 1844, 38:8-9; House Documents, 1859, 2:2-7; Public Documents, 1859, 4:8.

certain reflection of the popular will." Finally the increased prosperity and varied interests of the people required legislative recourse annually.[18] Those supporting retention of annual sessions do not seem to have capitalized upon a rather erroneous assertion of their opponents that most legislators were re-elected for at least one consecutive term.[19] Appendix J reveals otherwise. Consecutive representation (justifying biennial sessions) was more likely to occur in towns or cities not classed together for purposes of representation. In fact the hard-core of opposition was concentrated in House members whose districts included two or more communities. It had been the custom for representatives in towns so classed to serve alternating terms at Augusta. Of course interests of towns classed together were quite different and under biennial sessions would be voiced less frequently.[20]

Of course there were some members who were part of the state political ring. Politics was their livelihood; annual sessions increased their income. Though enacted under a Democratic governor the proposal had been urged by many prominent Republicans and its ultimate success cannnot be entirely attributed to partisan politics.[21]

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[18] Public Documents, 1844, 3:3, 1853, 4:9-11; Daily Kennebec Journal, January 23 and 28, 1875.

[19] Portland Daily Advertiser, February 17, 1875.

[20] For example, one Lincoln County district consisted of the towns of Jefferson, Whitefield, and Bremen. In the cycle 1874 to 1876, a member of each town served one year.

[21] Aroostook Times, February 4, 1875 and Portland Daily Advertiser, February 17, 1875 which disagree with the above con-

Once a rider for November elections had been dropped the 1879 legislature gave final approval to Amendment XXII. It was challenged unsuccessfully until 1887 when the question of returning to annual sessions was defeated at the polls. For years thereafter annual sessions remained in the background. The twentieth century has seen several unsuccessful attempts by the Democratic Party to restore once yearly meetings.[22]

Amendments XXV and XXVII (1880 and 1887, respectively) are of minor importance. Precautionary rather than immediately essential they were presented only to rectify omissions in the biennial session and election amendment. Instead of holding office until the "first Wednesday in January next succeeding their election," legislators would serve until "the day next preceding the biennial meeting of the legislature." The state treasurer was to be elected biennially and his eligibility in that office was increased from five to six years.[23]

IV. PERMANENT LOCATION OF THE STATE CAPITAL

"Augusta is hereby declared to be the seat of government of

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clusion. See previous footnotes for Republican support. Greenbackers and Democrats forced the issue in 1879 but without tripartisan support it would have failed to pass. See Hatch, History, 2:594.

[22]See Appendix D; Senate Journal, 1879, pp. 28, 312,325-326; House Journal, 1879, pp. 348-349, 407-410; Resolves, 1879, 151:109-110; 1880, 219:193. For resubmission see Resolves, 1887, 114:57-58.

[23]Resolves, 1880, 217:191-193; 1887, 80:42-43; 1889; pp. 151-152, 156. Also see Rogers, Our System, p. 524.

this State." The incorporation of the preceding sentence into the constitution in 1911 ended ninety years of almost uninterrupted squabbling over the permanent site of the state capital. Though primarily discussed in non-constitutional terms throughout the nineteenth century this debate deserves some mention.

The legislature first met at Portland but it was generally understood that a permanent site more centrally located would be selected within ten years. After innumerable attempts to delay the inevitable a committee was empowered to examine prospective localities and report upon the most suitable locations. Wiscasset is best, reported the committee, if a seaport capital is desired; otherwise Augusta was declared to be the most central and convenient location within the state.[24]

Augustans responded with offers of deeds to several lots; Portland, Wiscasset, and Bath made similar offers. Once Portlanders saw they might even lose the temporary capital they acquiesced and supported an act establishing "the permanent seat of government" at Augusta once the capitol building was completed.[25] The legislators first assembled at Augusta in January of 1832. No legislative attempts were made to move the "permanent" capital that year; there-

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[24] Resolves, 1911, 210:812-813; Hatch, History, 3:725-726. Also see Rogers, Our System, p. 524; Resolves, 1823, p. 288-289.

[25] Louis Hatch mentions a rumored bargain between the Augusta forces and Senator John Holmes whereby Holmes traded votes on the location of the capital in exchange for support on a bill to establish Alfred as the seat of all York County courts; Hatch, History, 1:118, 3:726. In 1833 all courts were moved from the town of York to Alfred. See House Journal, 1833, p. 184.

after it was a rarity when such was not proposed.[26]

Augusta was certainly not the most cosmopolitan of towns but the Maine Farmer protested when a Portland editor in all seriousness claimed that there was absolutely nothing to do in Augusta. The offending editor had written that "it is a matter of wonder that members do not grow dull and stupid .... It is a matter of surprise that suicide is not a common occurrence .... Portland is alive all the year round. It does not have an existence for two or three months and then crawl into its shell to doze away the balance of the year."[27] Accomodations were high in Augusta: this theme recurred in many legislative sessions. Though the modern analogy of a tourist trap may be too harsh it is not entirely without merit. Certain hotels and eating establishments relied almost exclusively on the trade during the legislative session for their yearly income.[28] Complaints of leaky roofs, poor heating and ventilation, and lack of space in the capitol building became more frequent as the century progressed. A final argument—that the commercial capital should be

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[26]See Appendix D; Senate Locuments, 1824, 5:2; Senate Journal, 1825, p. 195. The amended permanent capital bill is found in Resolves, 1827, 366:1128-1129.

[27]Maine Farmer, March 22, 1860 as quoted from the Portland Advertiser.

[28]Maine Farmer, November 17, 1864 noted that an "enlarged and renovated" Augusta House, a "greatly enlarged and improved" Mansion House, and a "refitted and refurnished" Stanley House would reopen for the legislative session. Also see Senate Journal, 1868, p. 102; Maine Farmer, February 11, 1833 and July 30, 1846; Hatch, History, 3:728-729. Hatch further notes that in 1907 a group of local citizens purchased the Augusta House, renovated and reopened it without any profit, to satisfy demands of the legislators.

the political capital—was rejected by those who feared an even greater influx of lobbyists and influence peddlers in a commercial center.[29]

The most appropriate word to explain Augusta's retention of the capital is jealousy. Had all others but true supporters of Augusta been able to agree on a single alternative site it seems unlikely that the capital would have remained in Kennebec County. Bangoreans may not have desired Augusta but Portland was usually out of the question.[30] If Lincoln County could not have Wiscasset as the capital, neither should Penobscot have Bangor, nor Cumberland have Portland, and so forth. Kennebec County won out in spite of

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[29]Senate Documents, 1867, 80:1-6; Senate Journal, 1870, pp. 206-207, 216. A report contained in Senate Documents, 1870, 61:1-2 recommended repairing the capitol rather than moving the capital. The committee claimed that the cost of constructing an entirely new building would be prohibitive while the present building could be renovated for a rather modest sum. Bills presented for changing the site of the capital invariably contained the proviso that "suitable buildings be supplied free of charge" or words to that effect. Some also requested free transportation of all of the state's records to the new site. For example see Senate Documents, 1837, 5:1-3; House Journal, 1850, pp. 312, 339-344; Maine Farmer, April 27, 1854. The latter contains a plan to have an alternating capital; one year in Portland, the next in Bangor. On attempts to turn Portland's newly-constructed city buildings into the state capitol see Maine Farmer, March 15, 1860 and Senate Documents, 1861, 8:1-2. The city fathers of Portland provided special transportation and the entire legislature traveled to Portland to examine the new buildings. Also see Hatch, History, 3:726; Maine Farmer, March 22, 1860 and February 15, 1868 on the desirability of a single commercial-political capital.

[30]In the 1830's Penobscot County had given some support to Portland for once the capital had been moved to Cumberland County the move to Bangor would be simplified. The idea of a permanent location would have been weakened and the assumed growth potential of Bangor would make a northern trek inevitable. See Hatch, History, 3:726 and House Journal, 1837, p. 30.

itself: the opposition was divided: Augusta conquered, as Appendix I illustrates.[31]

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[31]This conclusion is not meant to imply either that those interested in retaining Augusta as the state capital were complacent or were above political chicanery, as this excerpt of a humorous account by a correspondent of the Maine Farmer, February 26, 1842, reveals. "Bribery and corruption did their appropriate work. It is said that the Committe on molasses candy, composed of boys in the Lobby, which has been stirring all winter, sweetened numbers of the members, with the sweetest of comfits and compliments, till they fairly flattered and wheedled them into the Kennebec interest ... which had the effect to stick the House to Augusta with all the adhesiveness of a Doctor's sticking plaster."

CHAPTER V

ROOM AT THE TOP:
THE BALANCE OF POWER IN THE STATE GOVERNMENT

The balance of power among the three branches of Maine's state government did not remain static during the nineteenth century. Strong initial executive hegemony, especially in the area of appointive offices, would tumble by 1855, then slowly return to regain some of its former power. The legislature would benefit from some of the authority lost by the governor and the executive council; in subsequent years the legislative branch would surrender a fraction of that pendulum-gained administrative and electoral authority to gubernatorial hands and completely eliminate the majority system of elections, thus giving assurances of finality in popularly elected offices. Once judicial tenure was established at seven years additional changes in the deliberative branch were wrought through statutory enactments. The electorate's gains more than matched any losses—losses never of rights guaranteed to them by the framers of the constitution, but of additional rights and responsibilities thrust upon them to compensate for a corresponding decline in the executive and legislative branches.

I. JUDICIAL TENURE

Judicial tenure and Jacksonian democracy were complementary arrivals in Maine. As its position became more secure the Democratic

party redoubled its efforts to restrict the length of judicial appointments, especially those of the justices of the Supreme Judicial Court. Governor Robert Dunlap devoted a portion of his inaugural address to that subject:

> I am nevertheless at a loss to comprehend the consistency of those parts of the Constitution of the State, which rely upon a constant responsibility to the people of one class of their public officers in order to secure the highest degree of integrity, with other parts of the Constitution which are founded upon the apparently opposite principle of placing the judicial officer above all direct accountability, as the sure guarantee not only of integrity of purpose, but of ... industry in the investigation of cases and application to legal study ....
>
> The spirit of the age inculcates uniformity in the application of the great principles of responsibility and obedience to the popular will.[1]

The "spirit of the age" prevailed in 1839.[2] No longer could judicial officers hold their offices indefinitely during good behavior. Now they were limited to seven year terms and could be removed sooner if the legislature so dictated; re-appointment was not, however, barred.[3] Many Whigs opposed the measure but

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[1] Public Documents, 1837, 2:15.

[2] This "spirit" was perhaps encouraged by an attempt to increase the number of Supreme Judicial Court Justices (dropped once tenure was established) and proposed hearings on the expediency of removing certain judicial officials. See House Journal, 1837, pp. 100, 427; Senate Journal, 1838, p. 265, 289, 353, 405-406.

[3] See Appendix E; House Journal, 1839, pp. 87, 99, 196, 338, 379, Appendix, 170-175; Senate Journal, 1839, pp. 225, 235, 289, 313, 322, 385-386. Compare the stronger language of the amendment as originally presented, Senate Documents, 1839, 23:3-5 with the approved bill, Resolves, 1839, 69:59-60 and with the original section of the constitution, Revised Statutes, 1840-1841, p. 30, 6:4. The popular vote was 25,747—17,788, Maine Farmer, January 18, 1840. The mandatory age seventy retirement was eliminated; an attempt to

remained officially silent, unwilling to incur the further wrath of the Democrats and perhaps provoke resolves for a popularly elected judiciary.[4] Ironically, however, two of the earliest "victims" were Chief Justice Weston and Associate Justice Nicholas Emery, replaced by Whigs in 1841. Even though Governor Edward Kent had wished to reappoint Weston the executive council had dissented. No serious attempt was ever made to repeal the third amendment. Thirty years later the Maine Farmer thought it all the more important because of "the stirring age in which we live. Opinions and decisions must be in accordance with the spirit of the age."[5]

II. EFFICACY OF SUPREME JUDICIAL COURT OPINIONS

Official opposition to the constitutional provision requiring the supreme court justices to render opinions "upon important questions of law" was but once heard. Harris Merrill Plaisted, Fusionist governor of Maine (1881-1882) claimed that such reports were not binding and "we all know how cheap our opinions are when we are not responsible for them."[6] The accusation was unfair. Maine's political picture had been muddied by the sudden success of the Greenback Party. The contested election of 1879 and subsequent

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restore this feature failed. See House Journal, 1842, pp. 699, 700, 702-708.

[4]See Maine Farmer, June 28, 1849.

[5]Maine Farmer, July 4, 1868 (italics added). Also see Hatch, History, 2:311, 3:742. An 1856 described it as the "most important amendment ... ever made." House Documents, 1856, 21:5.

[6]Senate Journal, 1881, pp. 53-54.

happenings had frayed tempers. Plaisted's blast was motivated by rulings unpleasing to him and the Fusionists. The Court had been frequently called upon for opinions over the years and had always responded—not necessarily in a unanimous voice—but their opinions had been thoroughly considered. Rarely had the justices attempted to do more than point out "the path of constitutional duty and power."[7]

III. THE PLURALITY SYSTEM OF ELECTIONS

Sixty-six districts—over forty per cent of the total number—had no choice for representatives during the annual state election of 1846. This had been the largest number ever of representative districts remaining unfilled after the first trial. The reason was a multiplicity of parties and divisive issues that rendered a majority vote not easily obtainable. Persistent re-balloting finally assured a full house. Once assembled these men reintroduced and passed a resolve designed to eliminate the recurrence of a similar situation—a plurality of votes was to be sufficient for election.[8]

Once prohibition, abolition, and free soil entered the political arena, Maine could no longer ignore isolated pleas for plurality elections on the state level. The legislative balance of power was often held by a small but effective group of splinter parties; continuance of responsible government was not a minor consideration.

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[7] Senate Documents, 1881, 101:3 rejects Plaisted's claim.

[8] Maine Farmer, October 1, 1846; Senate Documents, 1844, 38:8.

For several years the legislators would not take the logical final step. They proposed that only the names of the two highest vote getters be entered on the second trial or they suggested that if a majority was not obtained at the first election the second would require only a plurality. Still others wished plurality elections to commence only with the third balloting.[9]

Protracted debate plus more than a dozen amendments to an 1847 resolve resulted in a bill to elect the governor and state senators, as well as state representatives, by plurality vote.[10] Able to cast separate ballots for each of the three proposed changes the voters accepted the plurality election of representatives by a margin as small as that by which they rejected the other two. The official totals were:[11]

GOVERNOR	REPRESENTATIVES	SENATORS
Yes—14,022	Yes—13,738	Yes—13,393
No—14,390	No—13,114	No—13,526

Two reasons may be offered for the vote. One, the voting public had to sacrifice time and effort to finally elect representatives; the legislature had to determine unchosen governors and senators. Two, the area of responsibility of the representative was

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[9] House Documents, 1833, 8:1-3; Senate Documents, 1844, 38:4-11; 1845, 8:1-2; Maine Farmer, January 30, February 6, and March 20, 1845.

[10] See Appendix E. Compare the original resolve, House Documents, 1847, 10:1-2 with the final draft, Resolves, 1847, 45:31-32. Also see House Journal, 1847, pp. 198, 263, 370, 402, 437-438; Senate Journal, 1847, pp. 291, 354-355, 361-362, 410-411, 435-436, 450, 454, 490.

[11] Resolves, 1848, 84:92-93 and House Documents, 1848 contain the official votes on the proposed amendments.

less encompassing than that of a senator and insignificant in comparison with a governor; if a popular vote was unattainable it was assumed that legislators could best determine the most capable officials.

Accepting this reasoning, if one of the two remaining offices was to be ensconced in popular hands through plurality elections it would be the senatorial race and such was the case. Senators represented a single district whereas the governor was normally elected by the people and represented the entire state. Proposed several times before its adoption in 1875 this amendment reflected the growing sentiment toward a final determination of governmental officers by the people. There was no emergency in 1875, as had earlier occurred (see Table IV); rather a belief that a more mature electorate should have increased rights and responsibilities.[12]

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[12]See Appendices E and H; Commission Journal, 1875, pp. 33, 34, 59-60; Public Documents, 1875, 16:6; Presque Isle Sunrise, September 1, 1875; Rogers, Our System, p. 502. Two of the more spectacular battles had occurred in times of political flux. The first (1830) involved an unsuccessful attempt by the National Republicans to elect four of their senators. The examining committee had ignored constitutional procedure; hence Senator (later governor) Robert Dunlap and the Democratic-Republicans boycotted the legislative convention. The Court ruled against the actions of the National Republicans and ordered a new legislative convention which chose four Democratic members to replace the dismissed National Republicans. See Senate Journal, 1830, pp. 68-72, Appendix, ix, x-xix, xxx-xliv for bitter protests authored by Dunlap and others. In 1854 only thirteen senators and no governor had been elected. After weeks of party feuding the Supreme Judicial Court ruled that senatorial vacancies had to be filled before a governor could be chosen in legislative convention. See Hatch, History, 2:365-367; Public Documents, 1854, 12:4-5, 15-16. Also see Governor William Crosby's request for a constitutional change to plurality elections directly resulting from this election impasse. See Senate Journal, p. 71.

TABLE IV

SENATORS NOT OBTAINING A MAJORITY AND ELECTED BY THE LEGISLATURE: 1820-1875

1820	4	1831	0	1842	2	1854	18	1865	0
1821	0	1832	0	1843	6	1855	10	1866	0
1822	4	1833	0	1844	6	1856	5	1867	0
1823	1	1834	1	1845	8	1857	0	1868	1
1824	5	1835	2	1846	11	1858	0	1869	0
1825	0	1836	4	1847	19	1859	0	1870	0
1826	3	1837	3	1848	11	1860	0	1871	0
1827	1	1838	1	1849	18	1861	0	1872	1
1828	2	1839	1	1850	6	1862	0	1873	0
1829	2	1840	0	1851	16	1863	1	1874	0
1830	4	1841	0	1853	8	1864	0	1875	0

Source: Senate Journals for the corresponding years.

Under plurality elections only a tie vote or a vacancy caused by death or resignation would result in a legislative convention of representatives and as many senators were elected to determine—from a list of constitutional candidates—and supply the requisite number of vacancies. Popular election of state senators was carried to its logical conclusion in 1897 when the legislature accorded unanimous approval to a bill directing the governor to order an immediate election in any district in which a vacancy had occurred.[13]

Once the plurality election of senators was assured opponents of the majority system turned en masse toward the chief executive. Several times prior to the Civil War gubernatorial contests had been thrown into the legislature (see Table V). The lower house would then select two of the top four vote getters; the Senate would elect the governor from one of the two men selected by the House. This again became necessary between 1878 and 1880, the year in which the twenty-fourth amendment brought the governor's race into conformity with the plurality system.[14]

Table V illustrates that on more than one occasion the candidate having the most votes (a plurality) but not a majority was not elected by the lawmakers. This was hardly in the democratic tradition; the legislature could and did thwart the wishes of a large

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[13]See Appendix E. Compare Revised Statutes, 1871, pp. 29-30, 4:2:5 with Resolves, 1875, 89:30 and 1897, 259:117. The 1897 amendment received overwhelming (15,080—1,856) popular approval. See Resolves, 1901, p. 127.

[14]Resolves, 1880, 159:151-152.

TABLE V

MAJORITY SECURED BY SUCCESSFUL GUBERNATORIAL CANDIDATES: 1820-1880

Year	Governor Elected	Total Vote	His Vote	Majority
1820	King	22,014	21,083	10,076
1821	Parris	24,388	12,887	683
1822	Parris	22,180	15,476	4,386
1823	Parris	19,400	18,550	8,850
1824	Parris	20,439	19,779	9,559
1825	Parris	15,252	14,206	6,580
1826	Lincoln	21,063	20,639	10,107
1827	Lincoln	20,458	19,969	9,740
1828	Lincoln	28,109	25,745	11,690
1829	Hunton	46,551	23,315	139
1830	Smith	58,092	30,215	1,169
1831	Smith	50,219	28,292	3,182
1832	Smith	60,597	31,987	1,688
1833	Dunlap	49,352	25,731	1,055
1834	Dunlap	73,031	38,133	1,617
1835	Dunlap	62,683	45,208	13,866

NOTE: By majority is meant the number of votes above and beyond one half of the votes cast. It is not intended to indicate the margin of victory secured. For example: In 1822 Albion K. Parris collected 15,476 of the 22,180 votes cast. His nearest opponent, Ezekiel Whitman, got 5,795 votes. Parris' margin of victory over Whitman was 9,681 votes (15,476 minus 5,795) whereas his majority (the number over half the total ballots cast) was 4,386.

TABLE V (continued)

Year	Governor Elected	Total Vote	His Vote	Majority[a]
1836	Dunlap	54,688	31,837	4,493
1837	Kent	68,528	34,353	89
1838	Fairfield	89,595	46,216	1,418
1839	Fairfield	75,995	41,038	3,040
1840	Kent	91,174	45,597	10
1841	Fairfield	86,153	47,354	4,277
1842	Fairfield	71,780	40,855	4,965
1843	Anderson	63,139	32,029	459
1844	Anderson	93,853	48,942	2,015
1845	Anderson	67,405	34,711	1,008
1846	Dana	75,664	36,031	47.6%
1847	Dana	65,302	33,429	778
1848	Dana	82,277	39,760	48.3%
1849	Hubbard	73,781	37,636	745
1850	Hubbard	80,665	41,203	870
1852[b]	Crosby	94,707	29,127	30.6%[c]
1853	Crosby	83,627	27,061	32.4%[d]

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[a] If only a plurality was obtained it is given as a per centage.

[b] No election in 1851. Supra, chapter 4, section 1.

[c] John Hubbard had 41,999 votes.

[d] A. L. Pillsbury had 51,441 votes.

TABLE V (continued)

Year	Governor Elected	Total Vote	His Vote	Majority
1854	Anson Morrill	90,633	44,565	49.2%
1855	Wells	110,477	48,341	43.8%(e)
1856	Hamlin	119,814	69,574	9,667
1857	Lot Morrill	97,878	54,655	5,716
1858	Lot Morrill	112,898	60,380	3,931
1859	Lot Morrill	102,652	57,230	5,904
1860	Washburn	124,135	70,030	7,962
1861	Washburn	100,503	58,689	8,437
1862	Coburn	81,718	42,744	1,885
1863	Cony	119,042	68,339	8,818
1864	Cony	111,986	65,583	9,590
1865	Cony	86,073	54,430	11,393
1866	Chamberlain	111,892	69,637	13,691
1867	Chamberlain	103,753	57,332	5,455
1868	Chamberlain	131,782	75,523	9,632
1869	Chamberlain	95,082	51,314	3,773
1870	Perham	99,801	54,019	4,118
1871	Perham	105,897	58,285	5,336
1872	Perham	127,266	71,888	8,255
1873	Dingley	80,953	45,244	4,767

(e)Anson Morrill had 51,441 votes.

TABLE V (continued)

Year	Governor Elected	Total Vote	His Vote	Majority
1874	Dingley	95,300	50,865	3,215
1875	Connor	111,665	57,812	1,979
1876	Connor	136,823	75,867	7,453
1877	Connor	102,058	53,585	2,556
1878	Garcelon	126,169	28,208	22.4%(f)
1879	Davis	138,806	68,967	49.8%
1880	Plaisted	147,802	73,713	49.9%

(f)Connor (Republican) had 56,554; Joseph L. Smith, the Greenback candidate, had 41,371 votes.

SOURCE: Adapted from Annual Register of Maine, 1960-1961, (Portland: Fred L. Tower Companies, 1960), pp. 140-142.

minority of the population on several occasions. The swift passage of the 1880 resolve—when it had been rejected in 1875 while senatorial plurality was receiving unanimous legislative approbation—indicates that a reawakened tri-partisan awareness of a constitutional defect and of popular sentiment demanding a remedy for the situation.[15] Passage of the twenty-fourth amendment also marks legislative surrender of the last significant check upon the popular sovereignty of statewide elective offices.[16]

IV. THE APPOINTIVE POWER OF THE EXECUTIVE BRANCH OF THE STATE GOVERNMENT TO 1856

Unless otherwise provided for the governor and council have always had the right to appoint all judicial, civilian, and

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[15] See Appendices E and H; Daily Whig and Courier, January 30, 1875; Public Documents, 1875, 16:6; Commission Journal, 1875, pp. 35, 57, 59.

[16] The popular vote was 57,015—35,402, Resolves, 1881, pp. 102-103. The question of whether the twenty-fourth amendment was applicable to the 1880 election was raised by several legislators who claimed that the unamended majority rule (5:1:3) was in effect the day that Harris M. Plaisted was elected by a plurality vote, hence the election should be decided in the legislature. Technically they were correct for the constitution (10:4) stated that "if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of of this constitution." The actual resolve voted upon in 1880 stated that if it shall appear to the governor and council, upon examination of the returns, that a majority had been secured "it shall then be a part of the Constitution." This was so done by Governor Daniel Davis on November 9, 1880. Nevertheless Plaisted's plurality stood up because of: 1)the general understanding that despite the language of the resolve the amendment would apply to the 1880 election; 2)Republican fears that their party would suffer if they pressed the technicality; and 3)a poor reflection on the Supreme Judicial Court if it was forced to rule against Plaisted to

military office-holders. The nineteenth century nadir of such power was reached in 1855. The adjutant and attorney generals and the land agent were to be chosen annually by the legislature. Sheriffs, judges and registers of probate, and judges of municipal and police courts were rendered popularly elective under a plurality system. Petitioners and government officials had long clamored for changes in the executive's appointive power but not always the same offices were to be affected. The most persistent demands were for the popular election of county officials although a popularly-elected supreme court, executive council, land agent, secretary of state and state treasurer were sporadically sought.[17]

There was a feeling among many, including Whig Governor Edward Kent, that the executive branch could easily grow too powerful. Kent suggested that several state and county officers could and should be elected by the people. People have always acted intelligently, he asserted, in cases where they did elect, such as the office of county treasurer. Especially applicable to county officers was his statement that local people knew the

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satisfy the letter of the law. See Hatch, History, 2:626. Also see Senate Journal, 1881, pp. 30-31; House Journal, 1881, pp. 20-22; Resolves, 1880, 159:15. This point was clarified with an 1883 bill, Public Laws, 1883, 102:87 which established the first Wednesday of January following its approval by the people as the day when an amendment "shall take effect and become part of the constitution." Once before (1855) a similar situation had occurred over the effective date of an amendment (IX). Compare House Documents, 1856, 21:1-8 with Senate Documents, 1856, 21:1-14 and Resolves, 1856, 304:310-314 for highly partisan discussions on when the ninth amendment became part of the constitution.

[17]Resolves, 1855, 273:257-259. Also see Appendix E.

qualifications of the candidates and the performance of incumbents. The people, he proudly concluded, always acted from the most patriotic of motives "in that near approach to a pure democracy, a New England town meeting."[18]

Kent's enthusiasm for the bill was contagious. The 1842 legislature reported a bill for popular election of county officers—a bill of which the Maine Farmer could say: "it has gained strength every successive session, and the indications in its favor, are now such, that its passage may be predicated on moral certainty."[19] The lower house gave the proposed amendment over whelming bipartisan endorsement. Had one more senator voted affirmatively a two-thirds vote would have been realized and the measure given to the people. Opponents of popular election extension in succeeding legislatures attempted to make the proposals unpalatable to the legislators by amending the resolves so as to include a popularly elected secretary of state, state treasurer and the like.[20]

The cause of "pure democracy" might best be served, thought

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[18]Resolves, 1841, pp. 649-652. Compare with Democratic Governor Kavanaugh's veto message of an 1843 bill increasing the jurisdiction of justices of the peace and trial justices with a rider attached for the popular election of such officials. Edward Kavanaugh, who became governor when John Fairfield resigned to become a United States senator, was not content to note that such an action would violate the constitution (5:1:8). On the whole topic of popular election of appointed officials he opposed "the substitution, so suddenly, for an ancient and approved system, one so entirely novel in its features." See House Documents, 1843, 30:3-4; Resolves, 1844, pp. 359-360.

[19]Maine Farmer, February 19, 1842.

[20]See Appendix E; House Journal, 1842, pp. 600, 920; Senate

the 1855 lawmakers, by the popular election of certain local and county officials and legislative selection of the adjutant and attorney generals and the land agent. Popular sentiment was favorable (see Table VI) and the transferral of authority was soon effected.[21]

An attempt to limit the legislature's power of impeachment and address directly resulted from the Woodbury Davis case.[22] Governor Hannibal Hamlin stated that if Davis had been wrong it was merely an honest error of judgment upon a disputed point. "Such error, if error it was, involved no want of adequate judicial ability, or integrity of purpose." If the constitution allowed removal on such flimsy grounds the judiciary was humbled. "Malice

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Journal, 1842, pp. 397-398, 920.

[21]The implementation of this amendment, as footnote 16 indicates, was not entirely bereft of controversy. The first popular election of sheriffs was to occur in September, 1856. Governor Samuel Wells, early in the 1856 session, replaced several Republican sheriffs with Democrats. If the amendment would take effect only upon a legislative resolve so declaratory Wells' action was valid. If, however, the amendment took effect when the votes were cast or when the governor proclaimed the results Governor Wells' action was unconstitutional. The Emery-Baker case in Cumberland County was heard by Justice Woodbury Davis who refused to rule directly on the constitutionality of the replacement or on who was the rightful sheriff. He simply stated that only Baker was legally qualified to perform the duties of the sheriff for the court. The infuriated majority of Democratic legislators used their power of address to order a willing Governor Wells to remove Davis from office. Hannibal Hamlin, governor in 1857, reinstated Davis and he served until 1865. See Hatch, History, 2:392-396 on why address rather than impeachment was used. Also see House Documents, 1856, 21:1-18; Senate Documents, 1856, 9:1-14; Resolves, 1856, 304:310-314. Also see Senate Documents, 1856, 29:1-3.

[22]Senate Documents, 1856, 9:8-10, 12-14; Resolves, 1856, 304:315.

TABLE VI

POPULAR VOTE ON THE 1855 ELECTIVE FRANCHISE AMENDMENT

Popular Election of:	Affirmative	Negative
Judges of Probate	17,528	12,427
Registers of Probate	17,067	11,763
Judges of Municipal and Police Courts	16,871	11,803
County Sheriffs	17,382	11,771
Legislative Selection of:		
Adjutant and Quartermaster Generals	15,079	11,382
Attorney General	15,951	11,624
Land Agent	16,400	11,524

Sources: Senate Documents, 1856, 9:8-10; Resolves, 1856, 304:315.

or madness of party organization should not be able to remove any official," he continued, and if it could the constitution should be amended. Resolves were proposed for several years but never gained substantial legislative support and the matter was dropped entirely.[23]

V. ATTEMPTS TO REPEAL OR REVISE THE NINTH AMENDMENT OF 1855

Attempts to undo the handiwork of the 1855 legislators began in earnest about 1870 and were based on two general assumptions. One, that certain popularly or legislatively elected officials were responsible to the governor yet he had little to do with their choice. Also many wondered if popular election of judicial officers really increased their integrity. Was popularity synonymous with veracity and legal ability? It was realized that nominations eminating from the executive branch were not void of party considerations yet it was thought that the relative degree of competency would be enhanced if judicial appointments originated with the governor and council.

Attention was first focused upon the county sheriff's office. As the chief county executive officer the sheriff was

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[23]See Appendix E and the sources in footnote 21. Governor Hamlin took complete exception to the claim that the action "of said Woodbury Davis tends to produce insubordination, confusion and violence, is of dangerous and pernicious example, confounds the distribution of the powers of government, and tends to the subversion of the actual constituted and lawful authority of the state." Compare Senate Journal, 1856, pp. 273-274, 355, 362 with House Journal, 1857, p. 25 and with Hamlin, Hamlin, pp. 315-316 on the reinstatement of Davis.

responsible to the governor, yet relations between the two men were often severely strained and cooperation between the two offices non-existent when the two were of different political parties and disagreed over the enforcement of the prohibitory liquor law.[24]

Technically the governor was held responsible for the sheriff's actions, yet he could not appoint nor directly remove him from office. The Portland Transcript claimed executive appointment would result in inter-county cooperation among sheriffs and a far more effective state-wide law enforcement body than the independent state constabulary demanded by the prohibitionists.[25]

Although unwilling to recommend gubernatorial appointment the 1875 Constitutional Commission did present a resolve, subsequently rejected by the legislature, which permitted the governor to remove the state treasurer and attorney general and several county officers, including the sheriff, "for insanity, imbecility, or for corrupt practices, or for gross and wilful non-feasance, or malfeasance in office." The suspension would be final unless a legislative session commenced before the expiration of the suspended officer's term in which case the legislature would give final sanction to the action of the executive department. Supporters of the resolve justified it under the governor's consti-

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[24]Infra, chapter 7, section 2.

[25]Portland Transcript, January 16, 1875; Portland Daily Advertiser, January 25, 1875; Senate Journal, 1872, pp. 29-30; Rogers, Our System, pp. 539-540.

tutional responsibility to enforce the law. Opponents disputed the claim that impeachment proceedings were unwieldy. Their chief worry was over the relatively unchecked power accorded the governor which in the future might be used for personal motives.[26]

Two other Constitutional Commission resolves incorporated into the constitution were concerned with appointment of judicial officers and with the executive's power to pardon. Municipal and police court justices, rendered popularly elective in 1855, again became chosen by the governor. Thse magistrates sat without a jury in larger cities and towns and had concurrent jurisdiction with the Supreme Judicial Court in cases over twenty dollars. Their chief function in the 1870's seems to have been the prosecution of liquor law violators and as chapter 7 will show prohibitory legislation was little enforced in many of the larger communities. Having the opportunity to elect their own local judges it is highly unlikely that foes of prohibition--concentrated in the larger towns--would chose men who promised or who were known to favor strict enforcement of the liquor statutes. The subsequent appointment of these judges, however, had little overall effect on the degree of enforcement of prohibition.[27]

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[26]See Commission Journal, 1875, pp. 20-21, 38, 46-48. The resolves finally agreed upon by the Commissioners was much stronger than the original bill which covered certain county officers only. Also see Public Documents, 1875, 16:7; Appendices E and H; Daily Eastern Argus, January 20 and February 18, 1875; Portland Transcript, February 13, 1875.

[27]Revised Statutes, 1871, pp. 307-308, 27:44; Public Documents, 1875, 16:13; Commission Journal, 1875, pp. 44, 58, 61; Rogers, Our System, pp. 526-528. The Presque Isle Sunrise, September

The selection of probate judges, however, did not revert to executive appointment. Functions dissimilar to municipal judges explain why cries of "political pawns" were to no avail. Cases involving wills, appointment of guardians, division of property and estates, and insolvency would normally have no political overtones. The office of probate judge had not been degraded by two decades of popular election, hence the legislators saw no reason to change.[28]

VI. THE PARDONING POWER

The culmination of decades of discussion on the governor's pardoning power was an 1875 amendment tightening pardoning procedure and requiring public disclosure of all who were granted pardons.[29] Attitudes toward pardons, as reflected in official reports, depended on the individual but usually took one of two forms. Those stressing certainty rather than severity of punishment asserted that the pardoning power was greatly abused. Their arguments may be summarized as follows.

The governor and council are often besieged by petitioners

1, 1875 demanded that such offices not be the "foot ball of parties" as they then were.

[28]Revised Statutes, 1871, pp. 496-503, 63:1-36; Public Documents, 1875, 16:8; Commission Journal, 1875, pp. 56, 61; Appendices E and H; Rogers, Our System, pp. 528, 530; Portland Transcript, February 13, 1875.

[29]The successful abolition of capital punishment was in some measure due to the passage of the above amendment. For the abolition of the death penalty see Infra, chapter 7, section 1.

and shrewd lawyers and pardons are granted without sufficient investigation. Frequent pardoning detracts from the fear of long punishment and gives credence to the belief that public sympathy and petion-minded friends can get anyone out of prison. It is usually the greatest "rogues" who obtain pardons and then return "to the wanton and wicked propensities of their hearts." If one person is pardoned and not another dissension is created within the prison walls. Frequency of pardons encourages crime.[30]

Less numerous were those who thought that the benefits of a liberally exercised pardoning power far outweighed any disadvantages. As a rule such inspectors and wardens thought that rehabilitation would occur more rapidly outside prison walls than while one was incarcerated in a dark cell. Pardons depended in part on the prisoner's conduct while jailed, hence the hope of pardon would encourage good behavior, not ill-feeling.[31] It is hard to deny that the amendment did protect rather than enlarge the pardoning power.[32] The actual number of pardons decreased appreci-

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[30] Annual Report of the Inspectors of the Maine State Prison, for the Year 1842, pp. 7-8. Hereafter cited as Prison Inspectors' Report. The official title varies slightly over the years. Also see House Documents, 1860, 20:24; Attorney General's Report, 1863, pp. 9-12; Prison Inspectors' Report, 1852, pp. 27-28; 1880, pp. 24-25, 37; 1892, pp. 10-11; Portland Transcript, August 28, 1875.

[31] Prison Inspectors' Report, 1853, p. 18; House Documents, 1853, 3:38; Prison Inspectors' Report, 1858, p. 17; Public Documents, 1871, 16:19-20; Report of the Warden of the Maine State Prison, for the Year 1868, pp. 4-6. Hereafter cited as State Prison Warden's Report. Most wardens claimed that those pardoned rarely returned as second offenders.

[32] See Appendix K.

ably and the pardons that were granted were based upon newly-discovered evidence or other truly mitigating circumstances.[33]

VII. THE ATTORNEY AND ADJUTANT GENERALS AND THE LAND AGENT

The three state officers whose selection was transferred from executive to legislative hands by Amendment IX (1855) were all subjects of proposed constitutional amendments later in the nineteenth century. Amendment XXVIII (1891) restored executive appointment of the adjutant general. The adjutant general "is the confidential military adviser and chief of staff of the commander-in-chief;" legislative selection runs counter to proper military operation. Governor Edwin Burleigh requested such an amendment in his inaugural address and swift legislative approval and popular acceptance were obtained.[34]

The question was not who should select the attorney general or land agent but rather should those offices exist at all. Proposals to abolish the office of attorney general appeared infre-

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[33] Senate Journal, 1876, p. 43. See Prison Inspectors' Report, 1892, pp. 10-11 for an isolated attack on the pardoning power and a recommendation that it be vested in the Supreme Judicial Court. The Constitutional Commission of 1875 had unanimously voted to retain the pardoning power with the governor. See Commission Journal, 1875, p. 30, 68. Inspectors of other years (after 1875) always had kind words for executive handling of pardons if they discussed the topic.

[34] Adjutant General's Report, 1888, p. 22; Inspector-General's Report, 1888, p. 4; Senate Journal, 1891, p. 36; Resolves, 1891, 100:42-43; 1893, pp. 212-214, 216. The popular vote was 9,721—9,509. Also see Hatch, History, 3:719n.; Rogers, Our System, pp. 532-533.

quently throughout the century. Economy-minded legislators thought the position unnecessary and made several unsuccessful attempts to transfer the duties of the attorney general to a clerk in the office of the secretary of state or to county attorneys. The attorney general was more than a coordinator and collector of the data of county attorneys yet until the Civil War and the attempts to enforce prohibition his was not the most busy office in the capitol.[35]

The legislature abolished the office of land agent by a resolve of March 4, 1874.[36] Since the office was recognized and established by the constitution many state officials including the land agent questioned the legality of the measure. This matter was promptly solved by the Constitutional Commission of 1875; amendment XVIII removed the office of land agent from those annually elected by the lawmakers and gave public sanction to legislative action. Why the legislature had abolished the Land Agency is quite evident from an examination of the annual reports issued by that office. By 1874 Maine could claim less than 35,000 acres of settling land and the land agent's duties were diminishing. It was

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[35]See Appendix E: Senate Journal, 1880; p. 71; House Journal, 1879, p. 109.

[36]The resolve completely abolished the land agency and the land agent himself. The subsequent simply made the land agent a legislative rather than a constitutional officer. The 1874 bill was eventually repealed and the land agent continued as a public official until 1891 when he was established as head of the newly-created Forest Commission; he also continued as land agent. See Resolves, 1874, 314:193-194; Public Laws, 1876, 119:84; 1891, 100:90-95.

first hoped that the state treasurer could close up the land agency but this not proving practical the governor was given authority to appoint a land agent to terminate all unsettled business and permanently close the office. The governor so acted and the settlement of the land agency's affairs was eventually accomplished.[37]

VIII. THE EXECUTIVE COUNCIL

Bipartisan opposition to the executive council existed throughout most of the nineteenth century. Democrats claimed that "that hospital for decaying politicians" unnecessarily restricted the authority of the executive, "the use of the Council being as we were once told by a member of it, to prevent the Governor from doing anything."[38] And if the governor was a Democrat the invariably Republican council could effectively block critical appointments and squelch undesired proposals. Democrats concurred with a Republican plan to replace the council with a state auditor. Republican opposition to the governor's council was based on the quite true contention that the councillors usually had neither the

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[37] Public Documents, 1875, 16:9. Land Agent's Report, 1873, pp. 14-16; 1874, pp. 12-14; 1875, pp. 8-10 discuss lands remaining under the care of the land office and offer recommendations for its closing and transferral of duties. See also Treasurer's Report, 1875, p. 59; Senate Documents, 1876, 1:1-3 and the Presque Isle Sunrise, September 1, 1875. For three different view on the continuance of the land agent as a legislative officer see Governor Selden Connor's three inaugural addresses, Senate Journal, 1876, pp. 31-32; 1877, pp. 21-22; 1878, pp. 23-24 . Compare Land Agent's Report, 1879, p. 5 with Resolves, 1879, 111:95. Also see Appendices E and H. The Constitutional Commission originally proposed to transfer the land agent's duties to the treasurer's department but

time nor the talent to efficiently audit the accounts of the state. Recurring cases of financial irregularities rallied more support throughout the century for Republican objections to the council than for the more partisanly-political motives of the Democrats.[39] By replacing the council with an auditor and making the principal state officers ex officio the members of the council expenses would be reduced and men well-acquainted with the affairs of state would be officially constituted as the executive's advisors. The essential difference between Republican and Democratic proposals to eliminate the executive council was this: Democrats desired the removal of unnecessary restrictions on the governor's appointive powers whereas the more liberal members of the Republican Party wished professional state accounting while retaining some restraint upon the chief executive.[40]

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finally agreed to merely remove constitutional status from the office. See Commission Journal, 1875, pp. 20, 60.

[38] Portland Transcript, February 13, 1875; Maine Standard, February 19, 1875.

[39] See Appendix E and Maine Farmer, January 24, 1874. Until 1875 or so minor scandals, particularly in the land agency and the state prison, were frequent occurrences. In the most spectacular single incident it was discovered in 1859 that the state treasurer, Benjamin D. Peck, had misappropriated $94,023.99 in state funds that he had invested in Canadian lumber interests which declined heavily during the depression of the late 1850's. Peck later testified that he had little trouble in concealing his dealings from the inspectors of his accounts. See Public Documents, 1860, 14:57-60; Senate Documents, 1858, 19:1-5, 13-17

[40] Public Documents, 1862, 4:29-30; Senate Journal, 1880, p. 98. The 1875 Constitutional Commission proposed abolishing the council and establishing the office of state auditor and constituting the secretary of state and attorney general as a council in miniature. See Commission Journal, 1875, pp. 31, 33, 55-56; Public Documents, 1875, 16:8. Also see Appendices E and H.

The office of state auditor was finally approved in 1907, Maine being one of the last states to establish such a position. Judiciary committees had sharply criticized the council's accounting capability and Governor Llewellyn Powers had suggested a constitutional amendment, if necessary, or a bill transferring powers from the council to an auditor; neither suggested the complete abolition of the former office.[41]

A constitutional amendment to establish a state auditor was defeated by the voters in 1899. Governor William Cobb (1907) suggested that the amendment failed because people assumed it would just be another office with additional expense. Cobb blasted the then extant method of auditing. "The present system of auditing the State's accounts by the Governor and Council is an archaic absurdity. It is cumbersome, uncertain and incorrect .... It has long outlived any usefulness it may have possessed, and each year its ridiculous features are more pronounced." A sufficient number of legislators agreed with Cobb and a public law was approved establishing the office of state auditor.[42]

The reason for the continued existence of the executive council harks back to the major complaint of the Democratic Party;

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[41]Auditors for individual accounts had long existed. In 1836 the state treasurer had been made auditor of accounts; the next session swiftly repealed the measure. See House Journal, 1838, pp. 331, 347; 1839, pp. 80, 92, 111. Also see House Journal, 1895, p. 698; Senate Journal, 1897, pp. 48, 534; 1899, p. 43.

[42]For the governor's remarks see Senate Journal, 1907, pp. 30-31. See Resolves, 1899, 116:44 for the amendment and Public Laws, 1907, 147:162-165 for the final bill.

namely, the fact that the councillors are elected by the legislature in convention. Even if the governor is not a Republican the combined Houses invariably are and this is an excellent way to insure Republican hegemony in the capitol and throughout the state.

IX. LEGISLATIVE RESTRICTION IN THE NINETEENTH CENTURY

The nineteenth century saw little attempt to reduce or restrict the power delegated to the legislature by the constitution. This non-interference did not extend to the compensation of representatives and senators. Often suggested and sometimes proposed as a constitutional amendment were bills to limit the time of the annual sessions and the yearly compensation of the members. Until 1859 legislators were paid $2.00 a day for attendance; since then a straight salary has been in effect.[43] Claims that the sessions were unnecessarily extended for financial gain had some basis in fact. Governor William Crosby's criticism addressed to the 1853 legislature is a fair description of pre-Civil War legislative sessions. The legislature turns itself, said Crosby, "into a safety valve for the escape of a large amount of pent up eloquence, morbid philanthropy and wordy patriotism ... /while/ squandering time and money which belongs to the people."[44]

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[43]If presented as a constitutional amendment this measure would have evoked opposition not only from those against such legislation in principle but also from those who thought salaries apt to change with the years and this not deserving of the permanency of the constitution.

Ezekiel Holmes, editor of the Maine Farmer, a former state representative and Free Soil gubernatorial candidate, offered a thoughtful editorial on the efficacy of shorter sessions. He stated that little concrete was accomplished in the closing weeks of the sessions. "New members are more honest, more unsophisticated, less acquainted with the lamentable chicanery of party tactics and therefore less selfish, less biased ... and ... more willing to act for the good of the whole than they are after having been trained to toe the mark of political party."[45]

Table VII indicates the result of a straight legislative salary. The length of the sessions was markedly shortened; therefore legislative expenditures were reduced. Compare legislative journals for 1850 and for 1870 and one finds fewer protracted speeches, longer daily sessions, and fewer motions to adjourn in the latter; altogether a more businesslike atmosphere.[46]

X. CODIFICATION AND CONSTITUTIONAL CONVENTIONS

Two 1875 amendments were concerned with the constitution itself. Amendment XIX, proposed by the legislature, gave that body the right to call a constitutional convention if a two-thirds affirmative vote could be secured in both houses. Had the authority existed it is quite likely that a convention would have been held

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[44]Public Documents, 1853, 4:12. Also see Public Documents, 1859, 4:6-7; Maine Farmer, January 20, 1859; Rogers, Our System, p. 508.

[45]Maine Farmer, April 7, 1853. [46]Maine Farmer, April 2, 1870

TABLE VII

1820--LENGTH OF LEGISLATIVE SESSIONS--1899

Year	Days	Year	Days	Year	Days	Year	Days
1820	39	1838	80	1856	100	1874	57
1821	72	1839	83	1857	101	1875	50
1822	38	1840	114	1858	73	1876	50
1823	42	1841	102	1859	91	1877	38
1824	51	1842	86	1860	77	1878	51
1825	55	1843	80	1861	77	1879	64
1826	63	1844	80	1862	78	1880	68
1827	56	1845	98	1863	79	1881	73
1828	57	1846	90	1864	80	1883	72
1829	59	1847	84	1865	53	1885	59
1830	73	1848	94	1866	53	1887	72
1831	88	1849	99	1867	59	1889	71
1832	65	1850	114	1868	67	1891	87
1833	62	1851	21	1869	72	1893	85
1834	72	1852	111	1870	79	1895	81
1835	77	1853	96	1871	55	1897	73
1836	91	1854	107	1872	58	1899	80
1837	86	1855	74	1873	58		

NOTE: These are calendar days rather than legislative days.
Source: Annual Register of Maine, 1901-1902 (Portland: Grenville M. Donham, 1901), p. 111.

in 1875 rather than the commission that was established.[47] The twenty-first amendment provided for codification of the constitution once the 1875 resolves had been proposed to the people. The Chief Justice of the Supreme Judicial Court was to arrange the constitution according to the proper headings and delete any unnecessary sections. This was not a permanent regulation; amendment LXV made it so by requiring codification of the constitution every time the public statutes are revised, certainly a wise and progressive step.[48]

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[47] Resolves, 1875, 96:33. Agitation for a constitutional convention had been strong in the 1870's, Maine Farmer, January 21, 1871. Once the Commission was recommended by Governor Nelson Dingley it received general approval. See Senate Journal, 1875, pp. 41-42; Daily Eastern Argus, January 8, 1875; Maine Standard, January 8, 1875; Portland Transcript, January 18, 1875; Rogers, Our System, p. 512. Also see James Quayle Dealey, Growth of American State Constitutions (Boston: Ginn and Co., 1915), p. 82.

[48] Resolves, 1875, 95:32-33; Edward Dow, Constitution, p. 11.

CHAPTER VI

TAXATION AND GENERAL INCORPORATION

If census takers of 1870 had been required to record the five most pressing grievances of the Maine citizenry surely taxation special legislation, and education would have headed the lists of most people queried. If asked to explain his choices the average person would have complained that taxation was unequal, with intangible personal property the culprit; that special legislation endowed privilege and encouraged corruption; and that the public non-sectarian educational system alone should receive additional state aid and encouragement. Two decades and two pertinent amendments later the same question would have received a similar answer and thus the amendments must be analyzed to determine their effectiveness and the validity of the grievances.

I. TAXATION: AN INTRODUCTION

State revenue between 1820 and 1860 was gained from three major sources: 1)the state property tax; 2)revenue from land and timber sales; and 3)the semi-annual bank tax. The 1821 legislature had quickly approved the twice-yearly one-half per cent assessment on the par value of state bank capital stock. Twelve years later the receipts from the bank tax were ordered automatically transferred to the Common School Fund which had been established in 1828. The sufficiency of these revenue sources until the Civil War defeated

attempts to specially tax other organizations dealing in intangible services or affected with the public interest. Equally unsucessful were attempts to reduce the bank tax or to base it upon the bank's circulating medium or even upon bank profits.[1]

In 1860 the property tax yielded about one-half of the state's revenue; ten years thereafter all but two per cent of Maine's income was derived from this state tax. The National Banking Act of 1863 pressured state banks to join the national system or operate without banknotes. In either case the state could no longer assess a tax upon commercial banks. National banks could not be taxed by the states and state banks had been relieved of further state assessment once the National Banking Act took effect for it was assumed that they would either join the national system or close their doors.[2]

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[1]Richard Kenneth Stuart, Financing Public Improvements by the State of Maine (University of Maine Studies, Second Series, Number 72. Orono: University Press, 1957), pp. 52, 255-257. Hereafter cited as Stuart, Financing Public Improvements. Also see Senate Journal, 1821, pp. 184, 192; 1844, pp. 448-449; 1845, pp. 491-492, 509-510, 514; Report of the Bank Commissioners of the State of Maine, for the Year 1830, pp. 7-8; 1839, pp. 59-60; 1842, pp. 6-7, 13; 1845, 18, 21. Hereafter cited as Bank Report. The Bank Commissioner also served as the overseer of insurance companies for the years 1868 and 1869. For 1870 and 1871 the report is titled Report of the Bank Examiner ..., thereafter, Report of the Condition of Savings Banks. The above mentioned bank reports have a comparison of bank stock and circulation. Circulation between 1834 and 1845 rarely exceeded two-thirds of the par value of the capital stock and was often far below that. See Board of Education's Report, 1850, pp. 17-21 for a defense of the bank tax being applied to school funds.

[2]Once deposit banking came into vogue later in the nineteenth century, state banks again came into prominence for they could be organized with fewer restrictions than imposed upon a national bank.

Coupled with this was a declining revenue from land sales for Maine's public lands had nearly been exhausted. Gubernatorial addresses stressed such facts to bolster demands that intangible personal estste be made to bear its fair share of state expenditures. The outcome, states Jewett, was an ill-advised attempt at constitutional remedy in which the supreme law of the state was amended so that personal property as well as real estate would be taxed at a uniform rate. Jewett asserts that the amendment accomplished nothing whatsoever.[3]

It is true that with the exception of shares of manufacturing and railroad corporations personal property had been assessed at the same rate as real property. The very statutes on taxation included as taxable "all estates real and personal."[4] The above amendment's second section, however, stated that the legislature could neither "suspend or surrender the power of taxation." Heretofore only real estate had fallen under such a regulation; now it applied to both personal and real estate. The amendment's psychological value must not be overlooked. Governor Nelson Dingley's

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[3]Jewett, Financial History, pp. 56-57, 120, 122; Bank Report, 1864, p. 90. The Constitutional Commission had rejected a statement that "all taxes shall be uniform upon the same class of subjects and shall be levied and collected under general laws" in favor of equally apportioned and assessed taxes on real and personal estate. See Commission Journal, 1875, pp. 48-49, 49, 50-51. This was further amended in 1913 by amendment XXXVI which allowed the legislature to tax intangible personal estate "without regard to the rate applied to other classes of property." Resolves, 1913, 264:925-926; Hatch, History, 3:270.

[4]Jewett, Financial History, p. 122. Also see Report of the Special Tax Commission of Maine, 1889, p. 5 in Public Documents, 1890; Aroostook Times, March 4, 1875.

1875 address had assured the people that it would ultimately be possible to eliminate the state property tax once just assessments on banks, railroads, insurance and telegraph companies had been established and this amendment seemed to be a step in that direction. In the last analysis, however, Jewett's generalizations will stand. As the following paragraphs indicate, uniformity of taxation had begun prior to the seventeenth amendment and received no special impetus from the passage of the constitutional resolve. More importantly, while the amendment demanded equal rates of tax assessment it made no provisions for a uniform valuation of property both real and personal. Only with the establishment of a state board of assessors in 1890 was it possible to get at the root of the problem--unrecorded and unreported intangible personal estate.[5]

II. TAXATION OF THE "CULPRITS"

Once the tax revenue from commercial banks ceased state officials became increasingly aware of the rapidly-developing and prospering savings banks of Maine. Early bank examiners pictured such institutions as charitable organizations containing the precious savings of the "hard working lower class" and widows and children. By 1872 the picture had changed with private investors and business concerns depositing large amounts of tax-free capital. Two courses were open to the state. It could either limit the amount each individual or organization could deposit or assess an equitable tax

[5]Appendix N shows the phenomenal increase of savings bank deposits from less than $1,500,000 in 1860 to $67,000,000 by 1900. See

which would provide a badly-needed source of school revenue. The latter path was trodden and a one-half per cent annual tax on deposits was assessed; this was increased to one per cent in 1875 and reduced to three-fourths of one per cent in 1883.[6]

Once raised to one per cent the rate of bank taxation was condemned almost annually by the bank inspectors. They protested that Maine's assessment was comparatively steep; that other states collected a more reasonable amount.[7] Banks, wrote the inspectors, were assessed to the very last penny; there was no possibility of undervaluation. Furthermore investment opportunities were less attractive. No longer could the seven to eight per cent investment return, necessary to pay the tax, dividends, and operating expenses be earned. Increased taxation meant smaller dividends and subsequent investment of savings in more attractive enterprises. Perhaps a lower tax would have increased the total deposits, perhaps not. An examination of the financial statements of the various savings banks indicates that nearly all of them were operating prudently and profitably.[8]

Resolves, 1875, 91:30-31; Senate Journal, 1875, p. 25; Portland Transcript, August 21 and 28, 1875.

[6]Bank Report, 1865, p. 63; 1869, pp. 11-13; 1870, p. 13; 1874, pp. 11-12; 1896, pp. xii-xvi; Board of Agriculture's Report, 1876, pp. 62-64, 68. See Report of the Superintendent of the Common Schools of the State of Maine, for the Year 1872, p. 10. Hereafter cited as Superintendent of Schools' Report. Also see Maine Journal of Education, 6:152, April, 1872. In 1893 the bank tax on deposits was changed to a franchise tax, the value of the franchise being determined by average deposits. See Stuart, Financing Public Improvements, pp. 54-55.

[7]Appendix M contains comparative tax patterns for the years

Railroads were the second of the "intangibles" to come under a special tax statute. Albert W. Paine, author of the 1874 tax commission survey, wrote that railroads received many benefits and privileges from the state and contributed little in return. He recommended a blanket tax upon the corporate franchise, exempting only corporate stock. Paine opposed assessment on the capital stock for of two competing lines one might be capitalized at only half that of the second line. His line of reasoning was accepted and a one and one-half per cent tax on the corporate franchise was levied; later reduced to one per cent, it was still further changed by basing the tax on gross receipts per mile.[9]

Unlike the savings banks, railroad operators did not resignedly accept the new levies. Many of the lines refused to pay, their lawyers arguing that the acts were unconstitutional because all taxes on real estate and personal estate had to be equally apportioned and

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1874 and 1889 which was extracted from two special commission reports.

[8]See footnote 5. Also see Bank Report, 1876, p. 15; 1879, pp. xiii-xiv; 1881, pp. 8-9; 1882, pp. xli-xvi; 1890, pp. vi-viii; 1900, pp. xiii-xiv; Report of the Special Tax Commission of Maine, 1889, pp. 77-82 as found in Public Documents, 1890, volume 1. Only one bank commissioner, however, ever advocated the complete repeal of the tax; for him it was a roadblock to increased trade and industry. See Bank Report, 1877, p. 14.

[9]Public Documents, 1874, 11:17-24, 31; Maine Farmer, January 24, 1874; Board of Agriculture's Report, 1876, p. 61. Gross receipts per mile were determined by dividing the gross receipts by the number of miles of track of the railroad in Maine. The tax was one-quarter per cent on less than $2250 gross receipts per mile; one-half per cent between $2,250 and $3,000; and an increasing ratio of one-fourth per cent for every additional $750 to a maximum of three and one-fourth per cent. See Report of the Special Tax Commission, 1889, pp. 70-71, in Public Documents, 1890.

assessed. Company lawyers viewed the tax as a property assessment and claimed the state was guilty of taxation by classes—one per cent on railroads, two and one-half per cent on telegraph companies against a one-half per cent property tax. Government lawyers stated that such property was exempted from local taxation. They agreed that if one considered the corporate assessment as a property tax it was indeed disproportional but the railroad tax was not: it was a franchise tax to support the government that chartered and continually protected the lines. After a protracted court that eventually reached the Supreme Court, the state's taxation policy was ruled constitutional.[10]

No other business "is more appropriately taxable than this," reported the insurance commissioner in 1868. A year later he claimed that no other business in Maine had such great capital, liberal salaries, and abundant profit margin.[11] This was indeed true for the larger companies but local mutual organizations were frequently on the brink of disaster; occasionally they plummeted. Hence taxation of insurance companies was successfully avoided until 1876 when a two per cent levy on all premiums in excess of losses actually

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[10]For a presentation of both sides see Attorney General's Report, 1882, pp. 4-8; 1884, pp. 3-8

[11]Report of the Bank and Insurance Commisioner of the State of Maine, for the Year 1868, pp 23-25; 1869, p. 29; 1874, pp. v-viii. The back commissioner was laso the insurance commissioner in the years 1868 and 1869. A separate insurance commission was established by 1870. In all cases hereafter cited as Insurance Commissioner's Report. Also see School Superintendent's Report, 1864, p. 56 and Report of the Special Tax Commission of Maine, 1889, pp. 68-69 as found in volume 1 of Public Documents, 1890.

paid received legislative approbation. Telegraph, telephone, and express companies all came into the fold by 1883 and six years later nearly one-half of the state's revenue was obtained from these new corporate taxes.[12]

In light of this why the continued denunciation of the existing system of taxation? The Mayor of Auburn offered this answer: "there is a large amount of personal property ... that is inadaquately assessed, or a considerable amount that escapes assessment altogether."[13] The legislature, cognizant of the continuing criticism, established a Board of State Assessors to coordinate the efforts of local and county assessors. Their initial report blasted local methods of valuation. Even farm values varied widely; the average value of a horse in one county was $24; in another, $133.55. A comparison of the returns of town assessors and federal census figures indicated that only half of the property within the state was exposed for taxation. The Board admitted that "it is a hard thing ... to make a truthful man out of a liar" but they proposed to encourage honesty by establishing rigid standards for evaluatory purposes, thus eliminating the fear of local boards that they would overvalue in comparison with other localities. Such standards were created and by the turn of the century the assessors could report that while there was a long way to go taxation was much

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[12]Stuart, Financing Public Improvements, pp. 54-55; Jewett, Financial History, pp. 56-57, 120; Attorney General's Report, 1880, p. 3.

[13]Auburn City Report, 1869, pp. 8-9. Also see Board of Agriculture's Report, 1889-1890, pp 6-7; 1892, pp. 157-163.

more equal, thus encouraging prompt payment of taxes.[14]

III. EDUCATION

The position of church-related educational institutions in Maine was the underlying cause of an amendment proposed to alter article one, section three of the constitution. The words:

> ... and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance

were to be replaced by the following:

> ... and all religious societies in this State, whether incorporate or unincorporate, shall at all times have the right of managing, in ways not inconsistent with any other provision of this instrument, their ecclesiastical affairs, according to the polity of their respective churches.[15]

Religious societies always had the right to select their own teachers and religious worship on the sabbath would not be affected by the above. The 1870's was, however, a period of increased awareness of the necessity of an adequate education. It was argued that

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[14]Report of the Board of State Assessors of the State of Maine, for the Year 1891, pp. 133-137; 1892, 177-180; 1893, p. 202; 1898, pp. 255-256. Hereafter cited as State Assessors' Report. Also under fire were the unincorporated or wild lands, condemned as havens of non-resident tax-dodgers. Compare Senate Journal , 1875, p. 34 with Report of the Forest Commissioner of the State of Maine, for the Year 1894, pp. 9-11. Orren Chalmer Hormell, Maine Towns (Brunswick, Maine: Bowdoin College, 1932), pp. 59-67 treats taxation of intangibles by the state of Maine in the first three decades of the twentieth century.

[15]Public Documents, 1875, 16:2. Also see Commission Journal, 1875, pp. 38, 66.

the legislature should establish a common course of study for all children under the age of fifteen and refuse to recognize any individual or any institution that would not adopt the curriculum.[16] Those ministers who were also educators would be required to adopt a standard plan of study and to comply with the state law in all facets of scholastic religious observance. This proposed amendment was a compromise, less harsh than an oft-suggested bill to unconditionally forbid the appropriation or use of tax revenue or state property by any sectarian or religious society. That petitions for this arose simultaneously with the passage of the "mill tax" for the school fund suggests an additional reason for the amendment. The so-called mill tax bill provided for state assessment and collection of a school tax which would then be evenly distributed among Maine's schools. As long as communities collected at least part of their school revenue locally there was little dispute but with the new law town A might be assessed $4000 in school taxes and receive only $2,500 in return from the state. Plantation B might be assessed $300 and receive $1,000, perhaps employing that money in a sectarian institution. To say that there was a clear-cut church-state controversey would be incorrect. It would be equally incorrect to state that all the petitioners and legislators who supported the amendment (which never did pass) did so for purely

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[16]Daily Kennebec Journal, January 30, 1875. A proposal to force towns to establish uniform public school systems and to provide state aid only to such systems was rejected by the Constitutional Commission by a four to five vote. See Commission Journal, 1875, pp. 64-65.

educational reasons.[17]

IV. GENERAL INCORPORATION AND SPECIAL LEGISLATION

General incorporation laws had been proposed since the early 1830's yet the first truly effective laws did not appear until the passage of the fourteenth amendment (1875) which required comprehensive incorporation legislation and the elimination of all unnecessary special legislation. The forty year interim provided advocates of such legislation an extended opportunity to present their case. A summary of their arguments would include all the following points.

Special legislation wasted valuable legislative time that should have been devoted to more pressing statewide problems. The legislature was no more than a tribunal; its function, to examine the conflicting claims of "ambitious individuals and greedy corporations." The number of private and special laws sought was always great; the delaying tactics used by opponents of a particular measure wasted additional time.[18]

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[17] Daily Kennebec Journal, January 30, 1875; Maine Journal of Education, 6:152, April, 1872; Maine Farmer, January 21, 1871. The 1875 Constitutional Commission had rejected a proposal to amend the eighth article of the constitution so as to prohibit aid to colleges and academies and a proposal to make such aid at the discretion of the legislature. See Commission Journal, 1875, pp. 38-39, 39, 66-67.

[18] Maine Farmer, March 27, 1869 and February 3, 1872; Portland Transcript, August 28, 1872; Edward Nelson Dingley, The Life and Times of Nelson Dingley, jr. (Kalamazoo, Michigan: Ihling Bros. and Everard, 1902), pp. 96-97. Also see Senate Journal, 1876, p. 42; House Journal, 1893, pp. 698-699.

Special legislation promoted privilege, favoritism, and monopoly; general incorporation laws would secure equal treatment. No longer could two charters of incorporation "precisely similar in principle" meet entirely different fates in the legislature. Special interest groups would no longer overwhelm the legislators, either oratorically or financially.[19] Charters had too often been granted where no evidence of public necessity existed especially in cases of banking institutions and railroad construction. Under general laws railroads and banks would spring up only where legitimate community interests required them. Corporations of doubtful necessity or those whose charters were dependent on special privilege for successful operation would not be incorporable under general organization laws and thus the unhappy spectacle of corporations in the hands of swindlers or of receivers would occur far less frequently.[20]

Special legislation prvided the power for "the machinery of the 'Rings' .... The manipulation of the 'men inside politics' was generally seen .... It sustains a lobby often embracing vast wealth and political influence." The lobbyist is a politician—one of

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[19] Maine Farmer, March 2, 1837, March 27, 1869 and February 3, 1872; House Journal, 1873, p. 35; Senate Journal, 1876, p. 42; Treasurer's Report, 1835, pp. 11-13. The latter report recognized the monopoly inherent in much private incorporation. Rather than destroy the monopoly he suggested that the state secure a healthy per centage of the profits and hold part of the investment as a bonus to the state for granting monopolistic rights.

[20] Bank Report, 1853, pp. 37-38; 1857, pp. 100-101; 1859, p. 4; Maine Farmer, March 27, 1869; Senate Journal, 1874, pp. 42-43; Insurance Commissioner's Report, 1981, 2:vii.

"those who make it the study of their lives to render themselves acceptable to infamous men." General incorporation statutes would restore "independence of action and purity of legislation; the "third house" would be smashed and the "jobbers" put out of business.[21] Time no longer wasted in special legislation would mean shorter sessions, reduced expenditures, and the feasibility of biennial sessions. In short, Maine would have a government which accepted neither privileged persons nor privileged property.[22]

Legitimate special laws, however, did and still do have a place in state legislation. Municipal incorporation cannot always be accomplished by general law. Necessary exceptions to general incorporation statutes usually require legislative approval though in some cases state commissions and authorities are empowered to grant exceptions. The principle of special legislation has not been questioned, rather the problem has always been this: when does private legislation stop and special privilege take over?[23]

The year 1870 marks the passage of the first noteworthy general incorporation law for private corporations--private as opposed to those in any way affected with the public interest. Three or more

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[21]Maine Farmer, March 20 and 27, 1869, January 8, 1870 and February 18, 1871; Portland Transcript, August 28, 1875; Aroostook Times, March 4, 1875. Governor Nelson Dingley was the only state officer to publically acknowledge the existence of a powerful lobby in Augusta. See Senate Journal, 1874, p. 43.

[22]Senate Journal, 1837, p. 331; Maine Farmer, March 27, 1869, and January 8, 1870; Senate Journal, 1873, pp. 35-37; 1874, pp. 41; House Journal, 1893, pp. 698-699.

[23]Maine Farmer, February 28, 1861; Senate Documents, 1895, 2:4.

persons could by written agreement form a corporation for "carrying on any manufacturing, mechanical, mining or quarrying business" whose capital stock could be no less than $2,000 and no more than $200,000. Organizational procedure was simplified to encourage formation of corporations under this statute.[24] The January 7, 1871 Maine Farmer praised the statute but predicted that private legislation would still prevail. "There should be a clause in the Constitution forbidding the enactment of any but general laws." As Appendix L indicates few corporations were formed under general laws until the fourteenth amendment went into effect and a revised general incorporation bill was approved. This extended the right and the requirement of general incorporation to all corporations except savings banks, railroads, insurance, safe deposit, and telegraph companies and also extended the capital stock limit to $500,000.[25]

None of the above exceptions to the 1876 general law had ever fallen under general incorporation laws and only two earlier proposals had received more than passing mention. An 1854 committee studying the expediency of a general law for telegraph companies reported that state policy should be to protect enterprises from unreasonable and unnecessary competition. A multiplicity of competing

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[24]Public Laws, 1870, 93:70-71. Compare with the two earlier laws repealed by this statute; Public Laws, 1862, 152:118-122; 1867, 125:72-77. Also see Appendix F.

[25]Public Laws, 1876, 65:51; Senate Journal, 1876, pp. 42-43. Public Laws, 1878, 19:21 extended chapter 65 to intra- and interstate water transportation.

lines would result in poorer service, increased rates, and the destruction of healthy companies. The committee concluded that "the telegraph company is closely interwoven with the business and the social relations of the community. In its management the highest integrity, fidelity and impartiality are required. It must be conducted with energy, promptness, efficiency and liberality" and none of this would be accomplishable under a general law of incorporation.[26] Two years later the bank commissioners requested a general law for savings bank incorporation; a bill was subsequently presented but failed to pass.[27]

In 1876 the legislature finally approved a general incorporation act for railroads, for savings banks and trust and loan associations, and for insurance companies.[28] Except for minor revisions these were the laws that Governor Henry Cleaves (1895) claimed had "been practically disregarded by many legislative bodies." He continued, "our statutes are burdened with enactments clearly at variance with the intention and spirit of these plain provisions."[29] This

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[26] House Documents, 1854, 31:10, also see pp. 1-9, 11.

[27] Bank Report, 1856, pp. 96-97; House Documents, 1857, 43:1-26.

[28] For railroads see Public Laws, 1876, 120:85-88 and compare with two earlier bills that failed to pass, Senate Documents, 1871, 4:1-7 and House Documents, 1873, 1:1-9. The Maine Farmer, February 3, 1872, Daily Eastern Argus, January 18, 1875, and Presque Isle Sunrise, September 1, 1875 suggest different reasons for the defeat of the earlier bills. See Public Laws, 1876, 96:68-69 for the bank law and Public Laws, 1876, 114:101-105 for the general insurance incorporation law.

[29] Senate Journal, 1895, p. 47. Also see Governor Cleaves' veto message on a privately incorporated railroad bill, Resolves, 1893, pp. 202-207.

assertion is not entirely correct. Very few manufacturing and mining corporations sought private incorporation after 1875. Many of the special laws were for amendment or extension of previously-acquired charters as general laws did not always provide for self-amendment of charters. Telephone and electric power companies, among others, had not even been considered when the general laws were drafted. On the other hand railroads and insurance companies still sought private incorporation and exemption from certain requirements of the general laws. In certain cases these exemptions were necessary; in other instances corporations so privileged competed unfairly with other companies in a similar field or service, often leading to virtual monopoly or oligopoly.[30]

In an attempt to totally eliminate this problem a special commission recommended to the 1895 legislature that old laws be strengthened and that general statutes be established for gas and

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[30]See Appendix L for a comparison of general incorporation and special legislative chartering between 1870 and 1899. Also see Railroad Commissioners' Report, 1886, pp. 4-5; 1887, pp. 57-60; 1890, pp. 14-15.

[31]Resolves, 1893, 231:168, pp. 210-211. Their report is found in Senate Documents, 1895, 2:1-16. For areas newly covered by general incorporation statutes see Public Laws, 1893, 268:318-325 on street railways; 1895, 102:111-114 on gas and electric companies; 1895, 103:114-116 on telephone and telegraph companies; and 1895, 104:117-120 which was an attempt to eliminate the great volume of private fish legislation. The latter technically had been covered by earlier general laws but this was the first statute giving the fish commissioners sufficient power to establish close-times, and oversee the construction of dams or other water hazards for fish culture. For previous attempts at general fish legislation see House Documents, 1839, 39:3-12. Also see Resolves, 1893, p. 201 and the Annual Report of The Commissioner of the Sea and Shore

electric companies, and telephone and telegraph companies, as well as a general fish law. The recommendations were followed and by century's end hope was finally in sight for the elimination of most unnecessary legislation.[31] Thus if our hypothetical census question was again asked in 1900 the answer would have been quite different as new problems, reflective of a more modern era, were entering upon the scene.

Fisheries of the State of Maine, for the Year 1896, p. 22. A distinction must always be made between a general law, which governs the operation once the company is organized; and a general incorporation law, which is the instrument of organization itself.

CHAPTER VII

REFORM MOVEMENTS AND THE CONSTITUTION: CAPITAL PUNISHMENT AND PROHIBITION

Two nineteenth century reform movements which assumed the trappings of moral crusades were of constitutional significance in Maine. The abolition of capital punishment was effected by statutory law though proposals for inserting such a section into the constitution were entertained. The death penalty was directly related, however, to the second amendment (1837). The other movement, often not far removed from fanaticism, was prohibition, first introduced as a public statute and later buttressed by the twenty-sixth amendment (1883).

I. CAPITAL PUNISHMENT

The 1829 legislature removed the death penalty for the crimes of rape, robbery with intent to kill, and burglary therefore leaving murder as the only major capital crime, that is, one punishable by death. Total abolition of the death penalty was the next objective of the reformers. An 1836 Supreme Judicial Court decision temporarily roadblocked such action by ruling that under the constitution only capital crimes were not bailable and thus accused rapists and burglars could post bond as could murderers once capital punishment was abolished. The solution was an amendment; a resolve was speedily drafted and approved. The constitution now stated that bail would

be refused to any person accused of a crime which still was or had been a capital offense under the provisions of the constitution in 1819.[1]

The same year (1837) opponents of capital punishment won a moral victory with a law that dated the execution of a criminal convicted of murder no sooner than one year after the sentence was pronounced; such execution was dependent on the issuance of a death warrant by the governor. This law caused loud protest from ensuing governors. It did not order the governor to issue the certificate once a year had elapsed; the general understanding being that the law had indirectly ended capital punishment. It was as far as the 1837 legislators could then proceed without making murder a bailable offense. "Everyone who voted for that amendment understood that he voted to abolish the death penalty," asserted Representative Thomas Brackett Reed of Portland three decades later.[2]

Pre-Civil War executives had appealed unsuccessfully for a new statute to clarify the 1837 law; a Civil War hero, Joshua Chamberlain, finally forced some action. An earlier legal expert thought the law a "solemn farce" in which never-to-be-executed death sentences were issued. Such a trial, he continued, brought contempt for the law and no repentance for it was "simply a tragedy played,

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[1]See Appendix G; Public Laws, 1829, 430:1195-1198; House Documents, 1836, 26:1-4; Revised Statutes, 1840-1841, pp. 19, 41; House Documents, 1837, 37:1-2; Resolves, 1837, pp. 223-224. The popular vote was 9,330—8,328. See Resolves, 1838, pp. 361-363.

[2]Maine Farmer, February 27, 1869. Compare Attorney General's Report, 1863, pp. 6-9 with Maine Farmer, March 17, 1864.

and the Court, jurors, officers of the law and the prisoner at the bar are only actors in it."[3] Clarification came in the positive form of a law ordering the governor to issue a death warrant, unless the prisoner's sentence was committed or a petition for review was pending, one year after sentencing. This law also encouraged renewed efforts to totally eliminate the death penalty.[4]

Opponents of capital punishment usually fell under one of two categories; those claiming that the death penalty was un-Christian and those who asserted that it was not an effective crime deterrent. Pointing to Scripture the former argued that the Gospel forbade any punishment based on revenge; the government therefore had no right to take any life unless the public safety would otherwise be imperilled. While not unmindful of this argument the more practical-minded stated that the certainty and not the severity of punishment was the only effective deterrent to crime. They claimed that the death penalty increased chances of acquittal; juries being more willing to find a man innocent rather than render a guilty verdict for a crime whose punishment was forfeiture of life.[5]

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[3]Attorney General's Report, 1867, p. 6. Also see Attorney General's Report, 1860, pp. 4-5 and Senate Journal, 1858, pp. 146-148.

[4]Public Laws, 1869, 72:55. See Willard M. Wallace, Soul of the Lion (New York: Thomas Nelson and Sons, 1960), pp. 216-218, 222 for Chamberlain's view on capital punishment and his reasons for ordering the execution of a Negro, Clifton Harris, only the second hanging since 1837.

[5]House Documents, 1835, 25:1-25; Senate Documents, 1836, 37:1-32; Senate Journal, 1875, p. 38; Attorney General's Report, 1878, pp. 8-9.

Many of those who favored retention of the death penalty also believed that certainty rather than severity of punishment lessened the crime statistics. Maine's problem, as they saw it, was that she had neither severity nor certainty. The penal code was comparatively leient and the unrestrained abuse of the pardoning power removed all traces of certainty; the more heinous the crime and the criminal, the better the chance of a pardon. This opposition dwindled with the passage of the fifteenth amendment (1875) and a united front petitioned the 1876 legislature for a statute or an amendment to eliminate the death penalty.[6] The lawmakers responded with a bill which stated that "the penalty of death as a punishment for crime, is hereby abolished." Capital crimes became punishable with hard labor for life; an additional section closed loopholes in the pardoning provisions of the statutes.[7] Thus the death penalty was eliminated from the state's criminal code; it made a brief reappearance from 1883 to 1887, and was then abolished for the second and final time.[8]

Had the crime rate risen appreciably between 1877 and 1883? Official figures make an affirmative answer imperative. Between 1837 and 1876 a total of sixty-one individuals had been committed to the state prison for homicide; from 1877 to 1882 twenty-six persons were convicted of murder.[9] Two mitigating factors would seem

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[6] Supra, chapter 5, section 6. Also see Appendix G.

[7] Public Laws, 1876, 114:81:82; 1876, 132:96-97.

[8] Public Laws, 1883, 205:169-171; 1883, 247:204; 1887, 133: 104-107.

to lessen the effect of the awesome numerical comparison. First, capital punishment had heightened chances of acquittal so criminals were at first willing to run the risk of apprehension for they assumed that the abolition of capital punishment would not decrease the possibility of a not guilty verdict. Second, it was still commonly believed that pardons could be obtained with little effort. Once the above assumptions had been disproved, the number of murder convictions levelled off.[10]

II. PROHIBITION

Prohibition and its advocates have received extensive literary treatment and no attempt will be made here to give a complete history of the subject.[11] The most important statutes will be noted and a discussion of why a prohibitory amendment was desired will ensue. A

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[9]Of the sixty-one homicide convictions between 1837 and 1876, thirty-two were for first degree murder, of these, eight received life sentences and twenty-four the death penalty. Of the eight, four were pardoned, two died in prison, and two were behind bars in 1882. Of the twenty-four, five were pardoned, seven died in prison, eight still remained in jail, and four were hung. Twenty of the twenty-six homicides from 1877 to 1882 were declared first degree murder, all were sentenced to life imprisonment. Sixteen remained at Thomaston in 1883, two had been pardoned and two had died. Of the six convicted of manslaughter, five had been pardoned and one remained behind bars. See State Prison Inspectors' Report, 1882, Appendix A, pp. 43-45.

[10]See Attorney General's Report, 1878, pp. 8-9.

[11]A recent biography of Neal Dow presents an objective look at prohibition and its leading apostle. See Frank L. Byrne, Prophet of Prohibition: Neal Dow and His Crusade (Madison: The State Historical Society of Wisconsin for the Department of History, University of Wisconsin, 1961). Hereafter cited as Byrne, Prophet.

temperance movement commenced in Maine shortly after the War of 1812; in the 1830's the leadership was captured by advocates of total abstinence and prohibition. The first license law had been enacted in 1821; local option was substituted in 1829; a stricter license law was returned in 1837. The year 1837 was also a turning point for by that year Maine's champion of prohibition had selected and formalized the twin article of his creed; namely, prohibition and teetotalism. Neal Dow would fight to the finish; all the rum shops had to be destroyed; all sales of liquor had to be eliminated.[12]

Opposition to the licensing of vendors of alcoholic beverages burgeoned. Objections were numerous and the objectors even more so but their arguments can be summarized as follows. License laws gave credence to the belief that liquor is necessary and useful. They are evil because the action they sanction is evil. The rum trade is clothed with respectability and may legally extend itself while it remains a state-approved monopoly. The cause of prohibition is unattainable as long as liquor is legally sold.[13] On the other hand it was asserted that only good could emerge from a prohibitory law. Intemperance would be completely suppressed and the number of crimes substantially reduced. The major cause of broken homes and misery would be eliminated. "The liquor trade is inconsistent with

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[12]John S. C. Abbott and Edward Henry Elwell, The History of Maine (Portland: Brown Thurston Co., 1892), pp. 540-541; Hatch, History, 1:296-297; Byrne, Prophet, pp. 25-26; Collections and Proceedings of the Maine Historical Society, 1895, second series, 6:383-392.

[13]House Documents, 1837, 23:1-7; Maine Farmer, February 12, 1842; House Documents, 1845, 23:1-4.

our obligations as citizens of the State, and subversive of our social rights and civil institutions."[14]

With petitions, perserverance, and a prohibitory bill Neal Dow invaded the 1846 legislature and almost singlehandedly forced the lawmakers to concede the principle of prohibition rather than a stricter license law. The bill was not perfect but it was a start. The sale of liquor was forbidden except for imported liquors in lots of twenty-eight gallons or more and for medicinal and mechanical purposes; the sale to be through licensed persons of "good moral character."[15] Five years later the 1846 statute was replaced by the "Maine Law," so called because it was the model for so many other state prohibitory laws. Neal Dow's Maine Law had all the virtues of his earlier bill and few of its defects. "In general, Dow smoothed the path of the prosecution, multiplied difficulties for the defense and limited the discretion of often hostile judges."[16]

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[14] House Documents, 1837, 23:12-13; Ibid., pp. 7-11, 13-17; Resolves, 1825, p. 382; 1838, pp. 271-272. Petitioners often pictured the hardships of mothers and children. "The absolute necessity of industry, frugality and economy in this cold country calls loudly for such a reformation. The salvation of the soul calls still louder for such a reformation." See House Documents, 1846, 16:2.

[15] Compare House Documents, 1846, 27:1-3 (Dow's bill as originally presented) with Public Laws, 1846, 205:189-195, the bill as passed. Also compare Byrne, Prophet, pp. 36-39 with Neal Dow, The Reminiscences of Neal Dow (Portland: Evening Express Publishing Co., 1898), pp. 260-261. Hereafter cited as Neal Dow, Reminiscences. Senate Journal, 1846, pp. 518-519 estimated the petitioners at 40,000.

[16] Byrne, Prophet, p. 45; Neal Dow, Reminiscences, pp. 334-353; Public Laws, 1851, 211::210-218; Hatch, History, 1:299-303; Frederick Neal Dow, Prohibition: Why-How-When-Now (n.p.: Maine Woman's Christian Temperance Union, 1951), pp. 32-33, 35. For the claim that the Land Agent, Anson P. Morrill (later governor), should receive the lion's

With the passage of the Maine Law prohibition made its formal entry into politics. Thw Whigs favored prohibitory legislation, the Democrats and Free Soilers were divided. The House approved the measure expecting the Senate to reject it. The Senate did pass the Maine Law but assumed that the governor would veto it. Governor John Hubbard, a Democrat, unwilling to be the scapegoat. signed the measure.[17] Maine's prohibitionists were rather vociferous; their Democratic opponents, less noisy, and only waiting for an opportunity to repeal the 1851 bill. Their chance came in 1856 with the legislative election of Governor Samuel Wells. A revised liberalized liquor law, passed by the Democratic majority, allowed limited sale in towns issuing licenses; on-the-premises consumption was limited to sales by the glass to "travellers."[18] Once the Republicans regained legislative control they put the question of prohibition versus license law to the people. With prohibitionists organized en masse and the election generally boycotted by the Democrats it is little wonder that a new prohibitory law went into effect on July 15, 1858. Contemporary writers claimed that the Democratic party

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share of the credit for the passage of the bill see"Seventy-Five Years of Legislation in Maine For the Suppression of Intemperance," The Bangor Historical Magazine, 9:232-234, October-December, 1894. Hereafter cited as "Seventy-Five Years of Legislation."

[17]House Journal, 1851-1852, pp. 95, 102, 105-106, 117-118; Senate Journal, 1851-1852, pp. 87, 141, 166; House Documents, 1851-1852, 2:1-2; "Seventy Five Years of Legislation," pp. 232-234.

[18]See Senate Documents, 1856, 15:1-23 which concluded that prohibition was "impracticable as well as unwarrantable." (p. 22). Also see Hatch, History, 2:396-397; Byrne, Prophet, pp. 67-68. The license system was in the form of a local option.

committed suicide by opposing the Maine Law; later authors have suggested, more plausibly, that the Kansas-Nebraska question spelled the demise of once predominately Democratic Maine.[19]

Hatch asserts that perhaps the strictest attempt to enforce prohibition was forced upon an unwilling legislature by an 1867 temperance convention meeting in Augusta. Strict indeed was a bill establishing a state constabulary and a measure requiring imprisonment for first offenders of the liquor laws. An extra-constitutional provision lifted most restrictions upon "search and seizure." The liquor law was modified the very next year and the state constabulary act was repealed.[20] Subsequent legislatures made minor changes in the liquor provisions but till proposals to insert prohibition into the constitution were made it was the subject of little legislative

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[19]Compare A. Farewell and G. P. Ure, The Maine Law Illustrated (Toronto: Canadian Prohibitory Liquor Law League, 1855), p. 6 who claim that since the Democrats opposed the Maine Law Maine's "democracy has been entirely crushed" with Hatch, History, 2:396-397. Also see Hatch, History, 2:411-412; Senate Documents, 1858, 11:3; Public Laws, 1858, 50:61-62.

[20]The 1867 liquor had been submitted to the people and was approved by a 19,358—5,536 vote in a special election. For the state constabulary (this is a forerunner of the present-day state police of Maine) see Public Laws, 1867, 129:85-86; 1868, 143: 98-99. Public Laws, 1868, 222:153 demanded local enforcement of the liquor laws. For the statutes which "equally prosecuted" the petty cider seller or "the fountainhead of streams of 'wet damnation'" see Public Laws, 1867, 130-131:86-89 and 1868, 218:148; 1868, 224;153-154. Also see Public Laws, 1870, 125:95-97; 1870, 152:113. In addition see Hatch, History, 2:534; Wallace, Soul of the Lion, pp. 210-211, 214; Attorney General's Report, 1867. pp. 3-6. The Report of the Commissioners Upon the Jail System of the State of Maine, 1871, pp. 16-17, strongly urged imprisonment for all liquor law violators. (in Public Documents, 1871). Earlier prison inspectors and chaplains in the state prison at Thomaston used to claim that all of the inmates were either partakers of alcohol or incarcerated because of its effects. Later inspectors asserted that in the state prison liquor was not a major cause of imprisonment.

oratory.[21]

The January 4, 1883 Maine Farmer reported that the legislature would be petitioned for a prohibitory amendment "taking the question away from partizan politics and placing it beyond party caprice." Neal Dow hoped that a large popular majority would strengthen his appeal for more stringent laws, indirectly admitting that all was not well, as had been suggested by opponents of prohibition. Dow canvassed the state and got his majority (70,783—23,811) for an amendment foreever prohibiting the manufacture and sale of intoxicating liquor except for "medicinal and mechanical purposes and the arts." Cider did not come under the restrictions, one of the good rural members pointing that such prohibition would mean the demise of a legitimate industry—cider vinegar![22]

As a result of the twenty-sixth amendment the 1885 legislature revised and stiffed the liquor laws and required "scientific temperance instruction" in the schools.[23] In the last analysis the question that must be answered is this: to what degree was prohibition successful as a statute and as an amendment? The answer is based on a selec-

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[21]The 1877 legislature heartily applauded a joint resolution introduced in Congress proposing a national prohibitory amendment by 1900. See Resolves, 1877, 207:191-193. National legislation had been suggested as early as 1859 by the city marshal of Bangor. See Annual Report of Bangor, 1859, p. 58.

[22]Compare Resolves, 1883, 91:127-128 with two other proposed bills, House Documents, 1883, 1:1-4 and 1883, 17:1-3. Also see Frederick Dow, Prohibition, pp. 42, 73-74; Hatch, History, 3:633; Maine Farmer, February 2, 1882, February 1 and 8, 1883, and February 24, 1884. Also see Maine Farmer, September 4, 1884 and Appendix G.

[23]Public Laws, 1885, 267:219; 1885, 366:307-312.

tion of opinions of contemporary state officials and writers, as found in Appendix P, plus an examination of indictments for liquor law violations. And the conclusion is this: prohibition succeeded only where local popular sentiment wished it to succeed; it was highly unsuccessful in most large cities. A large minority never favored prohibition; repeal of the amendment was almost accomplished in 1911.[24] There was no uniform enforcement of prohibition; in one county liquor would be openly sold and in another, on the throes of a temperance revival, the liquor trade would be all but entirely suppressed. Sustained enforcement occurred in rural areas (especially away from the coast—areas in which the farmer or townsman enjoyed his hard cider. Public officials constantly bemoaned the lack of public cooperation in the apprehension and prosecution of liquor law violators. If drunkenness decreased and liquor sales diminished it was neither the result of the statutes nor the amendment but rather the result of the churches, the W.C.T.U. and other groups able to manipulate public opinion and influence state officials.[25]

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[24]Also see Appendix O. The Democratic legislative majority in 1911 resubmitted the question. 60,853 votes were cast against repeal, 60,095 for repeal. It was unfair of the Republicans to insinuate that Democrats favored intemperance; at the time Democrats wanted a tight license law. See Hatch, History, 3:648-652. Cyrus Davis, secretary of state during resubmission, claimed that prohibitionists used fraud and intimidation to defeat the amendment. Frederick Neal Dow asserted that the Democrats were financed by the National Brewers Association. See Cyrus W. Davis and Royal E. Cabell, The Two Banner Prohibition States (Cincinnati: The National Home Rule Association, 1914), p. 13 and Frederick Dow, Prohibition, pp. 43-44.

[25]"Seventy-Five Years of Legislation," 9:237-239, October-December, 1894.

CHAPTER VIII

SUMMARY

Only two of the ten articles of the constitution of the state of Maine remained unchanged throughout the nineteenth century. The third article, on the distribution of powers, and the eighth article, on literature or education, are still unamended as of this writing. The first article, the declaration of rights, was altered but once to eliminate the possibility of persons accused of murder and other major crimes, at one time punishable with death, of posting bond and perhaps escaping proper court action.

Ostensibly or not, many nineteenth century constitutional changes dealt with two major issues; namely, the power balance in the state government, and the extension or democratization of the franchise. The executive branch (the governor and his executive council), in the last analysis, had less power in 1900 than it did in 1820. Especially in the areas of appointments the legislature, and to a lesser extent, the people, assumed some of the powers originally assigned to the chief executive. The governor was more closely checked by the legislature; a good example is the pardoning power which remained with the governor, but under conditions concerned with the security of the general public.

Some of the officials rendered popularly elective or legislatively selected again became chosen by the executive branch but this certainly did not compensate for the appointive power once held by that branch. Legislative authority was curbed only slightly in

regard to administration and procedure. More importantly, the legislature's oft-exercised power to ultimately choose ostensibly popularly elected officials was lost. The plurality system of elections, completely accomplished by 1880, made the possibility of elections being thrown into the legislature slim indeed. Attempts to more equally apportion the legislature came to naught in the nineteenth century although the number of lower house members was fixed at one hundred and fifty-one in 1841. In the present century amendments to partially equalize the system of representation have been incorporated into the constitution.

Maine experimented with summer legislative sessions and returned to January meetings within a few years. Another experiment, prohibition, was repealed only after a later-enacted federal prohibitory amendment was itself repealed. State and municipal debt limitations were imposed; the state ceiling has been substantially modified in the past fifty years.

In conclusion it may be said that Maine's constitution changed yet remained the same. The organization and control of the state government certainly shifted and was modified with changing times; yet there are few instances in which a provision more applicable to statutory law was put into the constitution in an attempt to give the provision the solemnity and dignity supposedly accorded to the law of the constitution.

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BIOGRAPHY OF THE WRITER

Peter Neil Barry was born in Orange, New Jersey on December 19, 1940. He attended St. Peter's Grammar School in New Brunswick, New Jersey and was graduated from St. Peter's High School in June of 1958.

He entered Seton Hall University, South Orange, New Jersey in September, 1958 and received a Bachelor of Arts degree in History in June, 1962. While an undergraduate he was employed as assistant manager of Tara Greens Golf Club, Somerset, New Jersey.

In September, 1962 he was enrolled for graduate study at the University of Maine and served as a graduate assistant in the Department of History and Government. He is a candidate for the degree of Master of Arts in History from the University of Maine in June, 1965. He will attend Wayne State University, Detroit, Michigan in September, 1964 for further graduate study in History.

APPENDIX

INTRODUCTION TO APPENDICES A THROUGH G

Each one of these Appendices corresponds to a chapter of the thesis. Chapter 1 is supplemented by Appendix A; chapter 2 by Appendix B, and so forth. These Appendices give a condensation of legislative action upon proposed amendments throughout the nineteenth century. They follow the progress of the amendment, from its introduction to its final disposition. These Appendices, whose information has been obtained from the Journals of both houses, are not absolutely complete as a few early volumes could not be obtained or the information contained therein was complete.

There are thirteen columns on each page, each column being one of the possible legislative actions. The number beneath the column indicating when the proposal reached that point. For example, on the first page of Appendix A, concerning apportionment of the House of Representatives, the 1840 Senate voted to send such a proposal to committee, subsequently reconsidered their action, then recommitted the proposal. The committee presented a resolve which was read thrice, passed to be engrossed; the last action was reconsidered, and the Senate's final action was to refer the bill to the next legislature. House action was similar through the second reading, then the House voted to refer the bill to the next legislature rather than act further on the measure. Whenever a number is underscored (for example, 4) it means that the House or the Senate failed to approve that action. This series of Appendices will be of most value when used in conjunction with the text of the thesis.

APPENDIX A

LEGISLATIVE ACTION UPON APPORTIONMENT

APPORTIONMENT OF THE HOUSE OF REPRESENTATIVES

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to next Legislature	Engrossed	Final Passage
Senate 1821	1		2									
House	1		2									
Senate 1840	1	4		5	6	7		3	2, 9	10	8	
House	1	4		5	6			3	2	7		
Senate 1841	1	2		3	4		5				6	7
House	1	2		3			4				5	6
Senate 1846	1											
House	1											
Senate 1875		1		2	3						4	
House		1		2	3						4	
Senate 1879	1	2	2									
House	1	2	2									
Senate 1883	1	2										
House	1	2										

The 1875 and 1883 bills were concerned with the method or basis of apportionment, the others had to do with the actual number of representatives.

APPORTIONMENT OF THE SENATE

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to next Legislature	Engrossed	Final Passage
Senate 1842	2	1		3	4						5	
House	2	1		3	4						5	
Senate 1883	1		2									
House	1		2									

APPENDIX B

LEGISLATIVE ACTION UPON DEBT LIMITATION

LIMITATION OF MUNICIPAL INDEBTEDNESS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1850	1		2									
House	1		2									
Senate 1875		1		2	3		4	6			5	
House		1		2	3			6	5		4	
Senate 1876	2	1								3		
House	2	1		3	4		5			6		
Senate 1877	1	2		3				4			5	6
House	1	2		3	4						5	6
Senate 1895	2	1, 3	3									
House	2	1, 3	3									

Amendment XXII was passed in 1877; a municipal waterworks exception was proposed in 1895.

STATE DEBT LIMITATION

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to next Legislature	Engrossed	Final Passage
Senate 1847	1	2		3	4		5, 8			7		6, 9	10
House	1	2		3	4		5, 6					7	8
Senate 1858	1	2		3	4				6		7	5	
House	1	2		3	4						5		
Senate 1866	1												
House													
Senate 1867		1		2	3			6		5		4	
House		1						2					
Senate 1868	1		2										
House	1		2										
Senate 1869	1		2										
House	1		2										

The debt limit was established by Amendment VI (1847). Subsequent bills attempted to amend or abolish the amendment.

MUNINCIPAL WAR DEBT AMENDMENT

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature	Engrossed	Final Passage
Senate 1866	1	2	2								
House	1	2	2								
Senate 1867	1	4, 6	4	7	8		9	3	2, 5	10	11
House	1	4, 6	4	7	8		9	3	2, 5	10	11
Senate 1867	1	2		3	4		7		6	5, 8	9
House	1	2		3	4		5			6	7

Amendment XI was approved in 1868; the 1867 bill was a public act providing for state assumption.

APPENDIX C

LEGISLATIVE ACTION UPON ELECTION PROCEDURE AND THE FRANCHISE

FEMALE SUFFRAGE

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1859	1		2									
House	1		2									
Senate 1867	1		2									
House	1		2									
Senate 1868	1		2									
House	1		2									
Senate 1869	1									2		
House	1									2		
Senate 1870	1		2									
House	1		2									
Senate 1872	1	2		3	4				6		5, 7	
House	1	2		3	4	5		9	7		6, 8	
Senate 1873	2	1	3									
House	2	1	3	4	5						6	
Senate 1874	1											
House	1											
Senate 1875	1	2		3	4					5		
House	1	2		3	4					5		

FEMALE SUFFRAGE (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1878	1											
House	1											
Senate 1879	1											
House	1											
Senate 1880	1							3	2			
House	1											
Senate 1881	2	1	3									
House	2	1	3									
Senate 1883	1											
House	1											
Senate 1887	2	1, 3		4	5				7		6, 8	9
House	2	1, 3		4	5						6	7
Senate 1889	2	1, 3	3									
House	2	1, 3	3									
Senate 1891	2	1	3, 5					4				
House	2	1	3, 5					4				
Senate 1893	1	2	2	3	4						5	
House	1	2	2	3	4						5	

FEMALE SUFFRAGE (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature	Engrossed	Final Passage
Senate 1895	1	2	2								
House	1	2	2	3	4				6	5, 7	

All of the above bills were for complete female suffrage with the following exceptions. The 1868 bill concerned "sole women" only. The 1870 and 1872 bills were for presidential elections only. The 1889 and 1891 bills concerned municipal suffrage only.

SUFFRAGE FOR INDIANS

Senate 1851-52	1		2
House	1		2
Senate 1867	1		
House	1		
Senate 1889	2	1	3
House	2	1	3

SUFFRAGE FOR PAUPERS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1869	1		2									
House	1		2									
Senate 1870	1		2									
House	1		2									
Senate 1881	1	2						3				
House	1	2		4	5			8	7	6		
Senate 1887	1		2									
House	1		2									
Senate 1899	1		2									
House	1		2									

The first four bills were attempts to allow certain paupers to vote. The final measure was designed to broaden the definition of "pauper."

DIVISION OF TOWNS INTO VOTING DISTRICTS IF NECESSARY (AMENDMENT XII)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1869	1	2		3							4	5
House	1	2		3	4			5		6	7	8

DISENFRANCHISE DELINQUENT TAXPAYERS

Senate 1873	1		2					3		4		
House	1		2					3		4		

BRIBERY AT ELECTIONS (AMENDMENT XX)

Senate 1875		1, 10		2, 11	12		3, 5, 7	9			4, 6, 8, 13	14
House		1, 6		2, 7	8		3	5			4, 9	10
Senate 1876	1		2									
House	1		2									

ELECTION PROCEDURE FOR CITIES (AMENDMENT I)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1834	1	2		3	4		5					6	7
House	1	2, 9		3, 10	4, 11	6	5, 12		8			7, 13	14

Senate action on the above bill is incomplete.

CIVIL WAR SOLDIER VOTING (AMENDMENT X)

Senate 1863	1	2											
House	1	2											
Senate 1864	2	1		3	4							5	6
House	2	1		3	4							5	6

DISENFRANCHISEMENT OF DRAFT DODGERS AND DESERTERS

Senate 1865	2	1, 3	3, 5	7	8			11		4,6, 10		9	
House	2	1, 3	3	4	5					7		6, 8	9

RESIDENCE REQUIREMENT FOR VOTING

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1835	1		2									
House	1		2									
Senate 1857	1		2									
House	1		2									

Amendment XLIV (1919) extended the suffrage for three months if one moved within the state of Maine.

EDUCATIONAL QUALIFICATION OF VOTERS

Senate 1880	1		2									
House	1		2									
Senate 1891	2	1, 3		4	5						6	7
House	2	1, 3		4	5						6	7
Senate 1895	1		2									
House	1		2									

Amendment XXIX was approved in 1891; an attempt to resubmit the amendment was made in 1895.

APPENDIX D

LEGISLATIVE ACTION UPON STATE ELECTIONS AND LEGISLATIVE SESSIONS

CHANGE FROM WINTER TO SUMMER LEGISLATIVE SESSIONS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1826													
House	1												
Senate 1832	1												
House													
Senate 1833	1	2		3	4	6	5	9		8		7	
House	1	2		3, 7	4, 8			5, 9	6				
Senate 1834	1	2, 9		3, 10	4, 11	5			8	7		6, 12	13
House	1	2, 6		3	4				5			7	
Senate 1835	1	2											
House	1	2		3				4					
Senate 1837	1	2		3			4			6	7	5	
House	1	2		3			4, 7	8		6, 9	10	5	
Senate 1838		1		2									
House	1		2										
Senate 1839	2	1	3										
House	1	2	8	3	4				7	6	5		
Senate 1840	1		2, 4						3				
House	1		2, 4						3				

CHANGE FROM WINTER TO SUMMER LEGISLATIVE SESSIONS (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1841	1	2	3	4									
House	1	2	3	4								5	6
Senate 1842	1	4	2	5	6	7			3	9	11	8, 10	
House	1	4	2	5			6		3		8	7	
Senate 1843	1	4	2	5			6		3		7		
House	1	4	2	5	6		7		3		9	8	
Senate 1844	1	2		3	4		5		8	7		6, 9	10
House	1	2		3, 7	8		4		6			5, 9	10

RETURN TO WINTER SESSIONS

Senate 1848	1	4	2	5	6			7	3				
House	1	4	2	5	6			9	3	8		7	
Senate 1849	1	2		3	4		5, 10			7, 9		6, 8, 11	12
House	1	2		3			4			6		5, 7	8
Senate 1850		1		2	3		6			5		4, 7	8
House		1		2	3		4			6		5, 7	8

CHANGE OF STATE ELECTIONS FROM SEPTEMBER TO OCTOBER OR NOVEMBER

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1844												
House	1											
Senate 1858	1		2									
House	1		2									
Senate 1859	1	2										
House	1	2										
Senate 1875		1		2	3						4	
House		1		2	3						4	
Senate 1876	1		2									
House	1		2									
Senate 1879	2	1, 3	3	4	5		8		7		6	
House	2	1, 3	3	4	5		8		7		6	
Senate 1881	1	2		3	4			6, 8	7		5	
House	1	2		3	4				6		5, 7	
Senate 1883	1		2									
House	1		2									
Senate 1885	1	2	2									
House	1	2	2									

CHANGE OF STATE ELECTIONS FROM SEPTEMBER TO OCTOBER OR NOVEMBER (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature Engrossed	Final Passage
Senate 1887	1		2							
House	1		2							
Senate 1887	1	2	2							
House	1	2	2							

All but the 1889 bills were for November elections. Amendment LXXXIII (1957) finally effected the desired change.

BIENNIAL SESSIONS AND ELECTIONS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1837	1	2								3		
House	1	2								3		
Senate 1838	1											
House	1											
Senate 1840	1		2									
House	1		2									
Senate 1841	1	2		3	4						5	6
House	1	2		3	4						5	6
Senate 1844	2	1		3	4			5				
House	2	1		3	4			5				
Senate 1846	1	2		3	4						5	
House	1	2		3	4				6		5, 7	
Senate 1848	1	2		3	4			5				
House	1	2		3	4						5	
Senate 1850	1	2										
House	1	2		3	4						5	
Senate 1853	1	2		3			4		6		5, 7	
House	1	2		3					5		4, 6	

BIENNIAL SESSIONS AND ELECTIONS (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1854	1		2									
House	1		2									
Senate 1859	1	2										
House	1	2, 9		3, 10	4		5	11,12, 13 8	7, 15		6, 14, 16	17
Senate 1868	2	1										
House	4	1							3	2		
Senate 1869	1	2		3	4		5		7	8	6	
House	1	2		3	4					5		
Senate 1871	1									2		
House	1									2		
Senate 1873	1	2		3	4		5				6	
House	1	2		3	4		5				6	
Senate 1875		1		2	3						4	
House		1		2	3						4	
Senate 1876	1		2									
House	1		2									
Senate 1877	1	4	2					3				
House	1		2					3				

BIENNIAL SESSIONS AND ELECTIONS (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1878	1		2									
House	1		2									
Senate 1879	2	1, 3	3	4	5		8		7		6, 9	10
House	2	1, 3	3	4	5		8		7		6, 9	10

RETURN TO ANNUAL ELECTIONS AND SESSIONS

Senate 1881	2	1								3		
House	2	1								3		
Senate 1883	1									2		
House	1									2		
Senate 1885	2	1	3									
House	2	1	3									
Senate 1887	1	4	2	5	6			3			7	8
House	1	4	2	5	6			3			7	8

The biennial session amendment was passed in 1879; an annual session amendment was passed in 1887 but rejected by the people.

CHANGE TERM OF OFFICE OF SENATORS AND REPRESENTATIVES TO CONFORM WITH BIENNIAL SESSIONS (AMENDMENT XXV)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature	Engrossed	Final Passage
Senate 1880	1	2		3	4		5			6	7
House	1	2		3	4		5			6	7

CHANGE ELECTION OF TREASURER TO CONFORM WITH BIENNIAL SESSIONS (AMENDMENT XXVII)

Senate 1887	1	2		3	4					5	6
House	1	2		3	4					5	6

LOCATION OF THE STATE CAPITAL

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1821		1		2	3							4	5
House		1		2	3							4	5
Senate 1822	1												
House	1												
Senate 1823		1											
House		1, 4								3	2		
Senate 1824	1							2					
House	1							2					
Senate 1825		1		2	3		6			5		4, 7	8
House		1		2	3		4					5	6
Senate 1826	1	2											
House	1	2		3			4					5	6
Senate 1827	1	2, 9		3,10, 16	4,11 17		5	14	8	7,13, 15		6,12, 18	19
House	1	2, 8		3,9	10		4, 6		7	12		5,11, 13	14
Senate 1831	1												
House	1								2				
Senate 1832	1	2		3			6			5	4	7	
House	1	2		3				4		5, 6	6	8	

LOCATION OF STATE CAPITAL (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1834	2	1									3		
House	2	1									3		
Senate 1835	1	2											
House	1	2											
Senate	2	1, 10		3, 11	4, 12	5	6		9	8, 14	13, 15	7	
House	2	1, 11		3, 12	4, 13	5	7	6	10	9, 16	14	8, 15, 17	
Senate 1842	1	2											
House	1	2		3			5	4				6	
Senate 1845	1	2		3	4							5	
House	1	2		3	4								
Senate		1, 8		2, 9	3	4	10		7	6, 12		5, 11, 13	
House		1		2	3	4	6	5			7		
Senate 1847													
House		1		2	3							4	
Senate 1848	1		2										
House	1		2										
Senate 1849	1	2		3	4		6					5, 7	
House	1	2		3	4							5	

LOCATION OF STATE CAPITAL (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1850		1		2	3			4, 6		5			
House		1		2			3					4	
Senate 1851-52	1										2		
House	1										2		
Senate 1857	1	2									3		
House	1	2									3		
Senate 1858	1	2		3	4			7	6		5		
House	1	2		3	4			5					
Senate 1860	1	2		3	4						6	5	
House	1	2		3	4		8	6	7		5	9	
Senate 1862	1	2											
House	1	2		3									
Senate 1863	1	2						3					
House	1	2						3					
Senate 1864	1	2		3	4			5					
House	1	2		3	4			5					
Senate 1868	1		2										
House	1		2										

LOCATION OF STATE CAPITAL (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1870	1		2										
House	1		2										
Senate 1872	1												
House	1												
Senate 1876	1	2		3	4		5	6					
House	1	2		3	4							5	
Senate 1879	1												
House	1												
Senate 1889	1	2								3			
House	1	2								3			

Bills prior to 1827 either established the capital for the following year or attempted to establish a permanent capital. The 1827 bill established Augusta as the "permanent" state capital. Bills thereafter were all attempts to change the location of the seat of government. Amendment XXXIII (1911) made Augusta the seat of government. Many of the above bills were not in the form of constitutional amendments but are included to illustrate the continuing fight over the location of the capital.

APPENDIX E

LEGISLATIVE ACTION UPON THE BALANCE OF POWER IN THE STATE GOVERNMENT

TENURE OF JUDICIAL OFFICERS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1829	1		2									
House	1		2									
Senate 1831	1		2									
House	1		2									
Senate 1836	1		2									
House	1	2		3	4			5		6		
Senate 1839	1	2		3	5		4				6	7
House	1	2, 5		3			4, 6				7	8

MANDATORY RETIREMENT AGE OF JUSTICES

Senate 1842												
House		1		2	3						4	

PLURALITY ELECTION OF STATE REPRESENTATIVES

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
											3		
Senate 1843	1	2									3		
House	1	2											
Senate 1844	1	2		3				4					
House	1	2		3				4					
Senate 1845	1	2		3	4		5					6	
House	1	2		3	4						5		
Senate 1846	1	2		3	4							5	
House	1	2		3	4							5	
Senate 1847	1	2		3			4,7			6,9		5,8, 10	11
House	1	2		3			4,7, 10			6,9, 12		5,8. 11,13	14

PLURALITY ELECTION OF STATE SENATORS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1843	1	2									3		
House	1	2									3		
Senate 1844	1	2		3				4					
House	1	2		3				4					
Senate 1846	1												
House	1												
Senate 1847	1	2		3			4,7			6,9		5,8, 10	11
House	1	2		3			4,7, 10			6,9, 12		5,8, 11,13	14
Senate 1853	1								3	2			
House	1								3	2			
Senate 1854	1	2		3	4			5					
House	1	2		3	4			5					
Senate 1856	1		2										
House	1		2										
Senate 1857	1		2										
House	1		2										
Senate 1858	1		2										
House	1		2										

PLURALITY ELECTION OF SENATORS (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature	Engrossed	Final Passage
Senate 1863	2	1		3	4				6	5, 7	
House	2	1		3	4		5	6, 8	7		
Senate 1874	1		2								
House	1		2								
Senate 1875		1		2	3					4	5
House		1		2	3					4	5

Amendment XIII (1875) established plurality election of senators; a similar bill had been defeated by the people in 1847.

PLURALITY ELECTION OF THE GOVERNOR

Senate 1843	1	2							3		
House	1	2							3		
Senate 1844	1	2		3				4			
House	1	2		3				4			
Senate 1846	1										
House	1										

PLURALITY ELECTION OF THE GOVERNOR (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1847	1	2		3			4,7			6,9		5,8, 10	11
House	1	2		3			4,7, 10			6,9, 12		5,8, 11,13	14
Senate 1853	1								3	2			
House	1								3	2			
Senate 1854	1		2										
House	1		2										
Senate 1856	1		2										
House	1		2										
Senate 1857	1		2										
House	1		2										
Senate 1858	1		2										
House	1		2										
Senate 1875		1		2	3					5		4,6	
House		1		2	3							4	
Senate 1879	1		2										
House	1		2										
Senate 1880	2	1, 3		4	5							6	7
House	2	1, 3		4	5							6	7

Amendment XXIV (1880) was rejected by the people in 1847.

POPULAR ELECTION OF STATE OFFICERS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature Engrossed	Final Passage
Senate 1842	1	2						3		
House	1	2						3		
Senate 1856	1		2							
House	1		2							
Senate 1862	1									
House	1									
Senate 1880	1		2							
House	1		2							

POPULAR ELECTION OF LOCAL AND COUNTY OFFICERS

Senate 1840	1	2		3	4			5			6	
House	1	2		3	4			5			6	
Senate 1842		1		2	3		4	5				6
House		1		2	3	4					6	5, 7
Senate 1843	1	4	2	5	6			7	3			
House	1	4	2	5	6			9	3	8	7	

POPULAR ELECTION OF LOCAL AND COUNTY OFFICERS (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1854	1		2									
House	1		2									
Senate 1855	1	2		3	4						5	6
House	1	2		3	4		5		7		6, 8	9

Amendment IX (1855) provided for popular election of certain county officers as well as legislative selection of the adjutant and attorney generals and the land agent.

APPOINTMENT OF JUDGES OF MUNICIPAL AND POLICE COURTS BY THE GOVERNOR

Senate 1875		1		2	3						4	5
House		1		2	3						4	5

ABOLITION OF THE LAND AGENCY

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1853	1		2										
House	1		2										
Senate 1874	1	2		3	4					6		5, 7	8
House	1	2		3	4		5, 9	8		7, 10		6, 11	12
Senate 1875		1		2	3							4	5
House		1		2	3							4	5
Senate 1879	1												
House	1												
Senate 1880	1	2		3	4		5					6	
House	1	2		3	4					6	7	5	
Senate 1881	1										2		
House	1										2		
Senate 1885	1		2										
House	1		2										

The land agency was abolished by an 1874 public act (later rescinded) and made a legislative rather than a constitutional office by the resolve of 1875. Later bills attempted to completely eliminate the office.

APPOINTMENT OF THE ADJUTANT GENERAL BY THE GOVERNOR

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1891	1	2		3	4							5	6
House	1	2		3	4							5	6

TO ABOLISH THE OFFICE OF ATTORNEY GENERAL

Senate 1841	1		2										
House	1		2										
Senate 1843	2	1											
House	4	1		2	3								
Senate 1845	1	2		3									
House	1	2		3	4		5						
Senate 1853	1												
House	1												
Senate 1860	1		3							2			
House													
Senate 1879	1								2				
House	1								2				

APPOINTMENT OF PROBATE JUDGES BY THE GOVERNOR

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1875		1		2	3						4	
House		1		2	3						4	

APPOINTMENT OF SHERIFFS BY THE GOVERNOR

Senate 1870	1	2	
House	1	2	

POWER OF GOVERNOR TO REMOVE STATE AND COUNTY OFFICERS

Senate 1875	1	2	3	4	5	
House	1	2	3	4	5	

ABROGATION OF THE EXECUTIVE COUNCIL

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1856	1											
House	1											
Senate 1859	1	2		3	4						5	
House	1	2		3	4						5	6
Senate 1862	1											
House	1											
Senate 1875		1		2	3						4	
House		1		2	3						4	
Senate 1879	1	2	2									
House	1	2	2	3	4						5	
Senate 1880	1									2		
House	1									2		
Senate 1881	1		2									
House	1		2									

TO LIMIT LEGISLATIVE SESSIONS AND PAYROLLS

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1832	1												
House	1												
Senate 1840	1		2										
House	1		2										
Senate 1849	1												
House	1												
Senate 1859	2	1, 3											
House	2	1, 3		4	5							6	

The above was accomplished with a bill (not an amendment) which established a straight legislative salary.

TO LIMIT LEGISLATIVE USE OF IMPEACHMENT AND ADDRESS

Senate 1857	2	1									3		
House	2	1									3		
Senate 1858	2	1	3										
House	2	1	3										

AUTHORIZE LEGISLATURE TO CALL A CONSTITUTIONAL CONVENTION IF REQUIRED

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1871	1	2		3	4		5					6	
House	1	2		3	4		5	6, 8		7			
Senate 1872	2	1, 5	5	5	6				4	8		7, 9	
House	2	1, 5	3	5	6				4			7	
Senate 1875		1		2	3							4	5
House		1		2	3							4	5

CODIFICATION OF THE AMENDED 1875 CONSTITUTION

Senate 1875		1		2	3							4	5
House		1		2	3							4	5

RESTRICTIONS ON THE GOVERNOR'S POWER TO PARDON

Senate 1875		1		2	3							4	5
House		1		2	3							4	5

POPULAR ELECTION TO FILL SENATE VACANCIES

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1858	1		2										
House	1		2										
Senate 1897	2	1, 3		4	5							6	7
House	2	1, 3		4	5							6	7

APPENDIX F

LEGISLATIVE ACTION UPON GENERAL INCORPORATION AND TAXATION

GENERAL INCORPORATION LAW

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature	Engrossed	Final Passage
Senate 1837	1										
House	1										
Senate 1857	2	1		5	6		7	4	3 8		
House	2	1		5	6		7	4	3 8		
Senate 1858	1		2								
House	1		2								
Senate 1875		1		2	3					4	5
House		1		2	3					4	5
Senate 1876	1	2		3	4		5			6	7
House	1	2		3	4		5			6	7

The first three bills were unsuccessful. Limited general laws were enacted in 1862, 1867, and 1870. Amendment XIV required a broadened law which was passed the succeeding year (1876).

EQUALIZATION OF TAXATION

Senate 1875		1		2	3					4	5
House		1		2	3					4	5

GENERAL INCORPORATION BILLS FOR RAILROADS ONLY:
(PUBLIC ACTS, NOT AMENDMENTS)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1847	1		2									
House	1		2									
Senate 1854	1											
House	1											
Senate 1869	1	2		3	4						5	
House	1	2		3	4						5	
Senate 1870	2	1, 3		4	5		6	7	8	9		
House	2	1, 3		4	5					6		
Senate 1871	2	1, 3									4	
House	2	1, 3		4	5		6		8		7, 9	
Senate 1872	2	1, 3		4	5		6		8	7, 9		
House	2	1, 3		4			5, 6		8		7, 9	
Senate 1873	2, 4	1, 5		6	7		8		3		9	
House	2, 4	1, 5		6	7	8			3, 10	11	9	
Senate 1874	2	1	3									
House	2	1	3									
Senate 1876	1	2		3	4		5				6	7
House	1	2		3	4		5				6	7

TO LIMIT STATE AID TO THE PUBLIC SCHOOL SYSTEM

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1869	1											
House	1											
Senate 1872	1		2									
House	1		2									
Senate 1893	1	2		3	4						5	
House	1	2		3	4						5	6
Senate 1895	2	1	3									
House	2	1	3									
Senate 1897	2	1, 3	3									
House	2	1, 3	3									
Senate 1899	2	1								3		
House	2	1								3		

TO AMEND THE RIGHTS OF RELIGIOUS SOCIETIES

Senate 1875		1		2	3						4	
House		1		2	3				5		4, 6	

The latter is a milder form of the top prohibitory bill.

APPENDIX G

LEGISLATIVE ACTION UPON CAPITAL PUNISHMENT AND PROHIBITION

TO RESTRICT BAILABLE OFFENSES

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1836	1	2		3	4		5					6	
House	1	2		3	4								
Senate 1837	1	2		3	4	5						6	7
House	1	2		3	4	5						6	7

TO ABOLISH CAPITAL PUNISHMENT

Senate 1826	1		2										
House	1		2										
Senate 1828	1		2										
House	1		2										
Senate 1829	1	2		3	4	5	7			8		6, 9	10
House	1	2		3	4	6	5					7	8
Senate 1835	1	2		3							4		
House	1	2		5			4		3		6		
Senate 1840	1												
House	1												

TO ABOLISH CAPITAL PUNISHMENT (continued)

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amend	Indefinitely Postponed Recommitted	Previous Action Reconsidered Refer to Next Legislature Engrossed	Final Passage
Senate 1843	1		2							
House	1		2							
Senate 1849	1	2		3	4				7 5	6, 8
House	1	2		3	4				5	6
Senate 1859	2	1	3							
House	2	1	3							
Senate 1876	1	2		3	4				5	6
House	1	2		3	4				5	6

The abolition of capital punishment was never written into the constitution. All of the above bills were public acts. The death penalty was ended in 1876, reinstated in 1883, and again abolished in 1887.

PROHIBITION AS A CONSTITUTIONAL AMENDMENT

	To Committee	Bill Presented	Inexpedient	First Reading	Second Reading	Third Reading	Amended	Indefinitely Postponed	Recommitted	Previous Action Reconsidered	Refer to Next Legislature	Engrossed	Final Passage
Senate 1881	1	2		3	4		7			6		5, 8	
House	1	2		3	4			5					
Senate 1883	2	1, 3, 5		6			7		4			8	9
House	3	1, 4, 6		2, 7			8		5			9	10

REPEAL OR RESUBMISSION OF PROHIBITION

Senate 1895	2	1	3
House	2	1	3
Senate 1899	1		2
House	1		2

APPENDIX H

LEGISLATIVE VOTES ON THE AMENDMENTS PROPOSED BY THE CONSTITUTIONAL COMMISSION OF 1875

HOUSE OF REPRESENTATIVES

		Concerning Religious Societies	Original Bribery Amendment	Revised Bribery Amendment	November Elections	Biennial Sessions	Reapportionment	Plurality Election of Senators	General Incorporation	Plurality Election of Governor	Governor's Removal Power
AFFIRMATIVE	Republican	29	56	61	14	21	10	66	63	11	63
	Democratic	30	29	42	46	31	7	48	45	43	46
	Independent	1	3	4	4	5	2	6	5	2	3
	Total	60	88	107	64	57	19	120	113	56	112
NEGATIVE	Republican	33	10	9	56	49	60	3	3	55	0
	Democratic	14	15	1	3	18	42	2	3	6	1
	Independent	3	2	1	2	0	4	0	1	3	2
	Total	50	27	11	61	67	106	5	7	64	3
ABSENT	Republican	25	21	17	17	17	17	18	21	21	24
	Democratic	13	13	14	8	8	8	7	9	8	10
	Independent	3	2	2	1	2	1	1	1	2	2
	Total	41	36	33	26	27	26	26	31	31	36

HOUSE OF REPRESENTATIVES

		Abrogate Executive Council	Governor's Power to Pardon	Appointment of Probate Judges	Appointment of Municipal and Police Judges	Equalization of Taxation	Corporation Restrictions	Abolish Land Agency	Codification of Constitution	Final Consideration of Bribery Amendment
AFFIRMATIVE	Republican	6	55	14	61	64	33	53	53	43
	Democratic	18	46	11	41	45	30	40	41	32
	Independent	1	4	1	4	5	5	5	4	3
	Total	25	105	26	106	114	68	98	98	78
NEGATIVE	Republican	58	0	53	3	1	20	0	0	0
	Democratic	27	0	34	5	0	11	0	0	0
	Independent	3	0	4	1	0	0	0	0	0
	Total	88	0	91	9	1	31	0	0	0
ABSENT	Republican	23	32	20	23	22	34	34	34	44
	Democratic	12	11	12	11	12	16	17	16	25
	Independent	3	3	2	2	2	2	2	3	4
	Total	38	46	34	36	36	52	53	53	73

SENATE

		Concerning Religious Societies	Original Bribery Amendment	November Elections	Biennial Sessions	Reapportionment	Plurality Election of Senators	General Incorporation	Plurality Election of Governor	Governor's Removal Power	Governor's Power to Pardon
AFFIRMATIVE	Republican	11	11	1	10	5	25	25	17	17	17
	Democratic	3	2	3	1	2	3	3	3	0	3
	Total	14	13	4	11	7	28	28	20	17	20
NEGATIVE	Republican	14	14	24	15	20	0	0	8	7	4
	Democratic	0	1	0	2	1	0	0	0	3	0
	Total	14	15	24	17	21	0	0	8	10	4
ABSENT	Republican	3	3	3	3	3	3	3	3	4	7
	Democratic	0	0	0	0	0	0	0	0	0	0
	Total	3	3	3	3	3	3	3	3	4	7

SENATE

		Abrogate Executive Council	Appointment of Probate Judges	Appointment of Municipal and Police Judges	Equalization of Taxation	Corporation Restrictions	Abolish Land Agency	Codification of Constitution	Revised Bribery Amendment	Plurality Election of Governor Reconsidered	Final Vote on Bribery Amendment
AFFIRMATIVE	Republican	23	25	22	23	8	18	17	7	7	8
	Democratic	3	0	3	3	3	3	1	3	2	3
	Total	6	5	25	26	11	21	18	10	9	11
NEGATIVE	Republican	18	20	1	0	12	0	0	20	20	20
	Democratic	0	3	0	0	0	0	0	0	0	0
	Total	18	23	1	0	12	0	0	20	20	20
ABSENT	Republican	7	3	5	5	8	10	11	1	1	1
	Democratic	0	0	0	0	0	0	2	0	1	0
	Total	7	3	5	5	8	10	13	1	2	2

Sources of Appendix H: Senate Journal, 1875; House Journal, 1875.

APPENDIX I

VOTES BY COUNTY ON THE LOCATION OF THE STATE CAPITAL: 1827 AND 1837

A COMPARISON OF HOUSE VOTES BY COUNTY ON THE LOCATION OF THE STATE CAPITAL IN 1827 AND 1837

1827.			1837.	
County	Waterville	Augusta	Portland	Indefinitely Postpone
Cumberland	18–6	1–23	27–0	0–27
Hancock	9–5	9–6	7–2	3–6
Kennebec	2–19	21–0	2–22	24–1
Lincoln	3–19	20–2	7–16	14–10
Oxford	6–6	4–8	13–3	3–14
Penobscot	4–3	7–0	7–6	7–7
Somerset	7–3	11–0	3–14	17–0
York	10–12	8–14	22–0	0–23
Waldo			3–9	9–5

This appendix should be read as follows: In 1827 three representatives from Lincoln county voted for a bill to establish Waterville as the state capital while nineteen representatives from the same county voted against the measure.

Source: Legislative Journals for the corresponding years.

APPENDIX J

TERMS OF SERVICE OF MEMBERS OF THE HOUSE OF REPRESENTATIVES FOR THE DECENNIUM PRECEDING BIENNIAL SESSIONS:1872-1881 AS RECORDED IN THE ANNUAL REGISTERS

	Androscoggin						Aroostook							Franklin				
Representatives Serving:	1	2-4	5-6	7	8	9	1	2	3	4	5	6	7	1	2	3	4	5
Single Terms	6	5	4	8	10	6	3	1	2	3	4	5	1	8	4	4	10	8
Two Nonconsecutive Terms				1			1							1				1
Three Nonconsecutive Terms																		
Two Consecutive Terms	2	11	6			2	1		4		3	1	1		3	3		
Three Consecutive Terms		1						1					1					
Four Consecutive Terms			1										1					
Two Consecutive Terms Plus One Other Term							1			1		1						
Three Consecutive Terms Plus One Other Term										1								
Five Consecutive Terms Plus One Other Term								1										

Androscoggin Districts

1—Livermore and Turner
2-4 Lewiston
5-6 Auburn
7—Wales, Greene, Leeds, and East Livermore
8—Lisbon, Webster, and Durham
9—Poland and Minot

Aroostook Districts

1—Sherman, Dalton, Masardis, etc.
2—Madawaska, Van Buren, etc.
3—Weston, Bancroft, Amity, etc.
4—Houlton, Littleton, Monticello, etc.
5—Presque Isle, Maysville, Mars Hill, etc.
6—Limestone, Fort Fairfield, etc.
7—Frenchville, Fort Kent, etc.

Franklin Districts

1—Kingfield, Salem, etc.
2—Wilton, Jay, Carthage
3—Farmington, etc.
4—Strong, Weld, Phillips, and Avon
5—Temple, Chesterville, New Sharon, Industry

	Cumberland																Knox							
Representatives Serving:	1	2	3-7	8	9	10	11	12	13	14	15	16	17	18	19	20	1	2-3	4	5	6	7	8
Single Terms	2	8	12	4	8	6	4	2	3	4	4	8	4	10	6	8	8	9	10	6	4	4	4
Two Nonconsecutive Terms		1	2	1	1			2		1		1					1			1			1
Three Nonconsecutive Terms																							
Two Consecutive Terms	4		11	2		2	1	2	2	2	3		4		2	1		4		1	3	3	2
Three Consecutive Terms			4						1														
Four Consecutive Terms																							
Two Consecutive Terms Plus One Other Term																		1					
Three Consecutive Terms Plus One Other Term							1																

Cumberland Districts

1—Bridgton
2—Falmouth and Cumberland
3-7 Portland
8—Cape Elizabeth
9—Freeport and Pownal
10—Westbrook
11—Gorham
12—Deering
13—Brunswick
14—North Yarmouth and Yarmouth
15—Windham
Otisfield, Harrison, and Casco
17—Scarborough and Harpswell
18—New Gloucester and Gray
19—Standish and Baldwin
20—Raymond, Naples, and Sebago

Knox Districts

1—Hope, Appleton, Washington
2-3 Rockland
4—North Haven, Vinalhaven, and South Thomaston
5—Union and Warren
6—Camden
7—Cushing, St. George, etc.
8—Thomaston, Mantinicus, etc.

	Hancock									Kennebec											
Representatives Serving:	1	2	3	4	5	6	7	8	9	1-2	3	4	5	6	7	8	9	10	11	12	13
Single Terms	5	4	7	2	5	5	7	6	8	3	8	10	10	4	8	10	2	10	8	4	10
Two Nonconsecutive Terms					1			2	1		1				1				1		
Three Nonconsecutive Terms					1		1														
Two Consecutive Terms	1	3		4		1				5				3			4			3	
Three Consecutive Terms																					
Four Consecutive Terms																					
Two Consecutive Terms Plus One Other Term	1		1			1				1											
Three Consecutive Terms Plus One Other Term										1											

Hancock Districts

1--Deer Isle, Swan's Isle, etc.
2--Ellsworth
3--Gouldsboro', Franklin, etc.
4--Bucksport and Verona
5--Penobscot, Sedgwick, etc.
6--Tremont. Mt. Desert, etc.
7--Castine, Orland, Brooksville
8--Surry, Bluehill, Bedham
9--Aurora, Trenton, Hancock, etc.

Kennebec Districts

1-2 Augusta
3--Benton, Clinton, Winslow
4--Rome, Belgrade, Sidney
5--Vienna, Mt. Vernon, Readfield
6--West Waterville, Waterville
7--Vassalboro', Windsor
8--Pittston, Farmingdale, West Gardiner
9--Gardiner
10--China, Albion, Unity
11--Manchester, Monmouth, Litchfield
12--Hallowell, Chelsea
13--Winthrop, Fayette, Wayne

	Lincoln						Oxford								Piscataquis		
Representatives Serving:	1	2	3	4	5	6	1	2	3	4	5	6	7	8	1	2	3
Single Terms	8	7	7	5	2	6	10	10	2	5	4	8	10	10	10	10	8
Two Nonconsecutive Terms	1					2			1		1	1					
Three Nonconsecutive Terms										1							
Two Consecutive Terms				1	4				3	1	2						1
Three Consecutive Terms																	
Four Consecutive Terms																	
Two Consecutive Terms Plus One Other Term		1	1	1													
Three Consecutive Terms Plus One Other Term																	

Lincoln Districts

1—Newcastle, Somerville, etc.
2—Bristol, Damariscotta, Monhegan
3—Dresden, Wiscasset, Edgecomb
4—Westport, Boothbay, Southport
5—Waldoboro', etc.
6—Bremen, Jefferson, Whitefield

Oxford Districts

1—Hebron, Buckfield, Oxford
2—Canton, Peru, Sumner, etc.
3—Paris, Greenwood, Milton
4—Norway, Waterford, Albany, etc.
5—Bethel, Upton, Gilead, etc.
6—Denmark, Hiram, Sweden, Lovell
7—Porter, Fryeburg, Stow, Brownfield
8—Rumford, Mexico, etc.

Piscataquis Districts

1—Sebec, Brownville, Milo, Medford, etc.
2—Greenville, Guilford, Monson, Foxcroft, etc.
3—Sangerville, Dover, Parkman

	Penobscot																Sagadahoc			
Representatives Serving:	1	2	3	4	5	6	7	8	9-11		12	13	14	15	16	17	18	1	2	3	4
Single Terms	8	10	10	5	6	10	10	2	11		6	6	8	10	8	6	10		4	5	4
Two Nonconsecutive Terms	1							1	2		1	2			1	2			3		3
Three Nonconsecutive Terms																				3	
Two Consecutive Terms				2	2			3	6		1							5		1	
Three Consecutive Terms																					
Four Consecutive Terms																					
Two Consecutive Terms Plus One Other Term				1					1												
Three Consecutive Terms Plus One Other Term																					

Penobscot Districts

1—Dexter, Corinna
2—Stetson, Newport, Plymouth
3—Corinth, Hudson, Alton, etc.
4—Oldtown
5—Kingman, Winn, Lee, etc.
6—Bradley, Milford, Holden, Eddington, etc.
7—Medway, Patten, Lincoln, etc.
8—Burlington, Enfield, Argyle, etc.
9-11 Bangor
12—Glenburn, Orono
13—Orrington, Brewer
14—Carmel, Hermon, Levant
15—Etna, Newburg, Dixmont
16—Hampden, Veazie
17—Exeter, Garland
18—Bradford, Charleston, Lagrange

Sagadahoc Districts

1—Bath
2—Phipsburg, Georgetwon, Woolwich, Arrowsic
3—Bowdoinham, Topsham, West Bath
4—Richmond, Bowdoin, Perkins

	Somerset								York														
Representatives Serving:	1	2	3	4	5	6	7	8	1-2	3	4	5	6	7	8	9	10	11	12	13	14	15
Single Terms	10	8	10	10	2	10	8	10	10	10	2	7		4	6	10	10	6	4	4	3	6
Two Nonconsecutive Terms		1					1		2					3	1			1	1			2
Three Nonconsecutive Terms																						
Two Consecutive Terms					4				3		4		5		1			1	2	3	2	
Three Consecutive Terms												1										
Four Consecutive Terms																						
Two Consecutive Terms Plus One Other Term																					1	
Three Consecutive Terms Plus One Other Term																						

Somerset Districts

1—Bingham, Moscow, Moose River, Mayfield, The Forks, etc.
2—Norridgewock, Anson, Starks
3—New Portland, Solon, Madison
4—Fairfield, Mercer, Smithfield
5—Skowhegan, Detroit
6—Palmyra, Pittsfield, Canaan
7—Ripley, St. Albans, etc.
8—Athens, Harmony, etc.

York Districts

1-2Biddeford
3—Acton, Newfield, Shapleigh
4—Hollis, Buxton
5—Kennebunkport, Dayton
6—Kittery
7—South Berwick and Eliot
8—Waterborough and Limerick
9—Lebanon and Sanford
10—Limington and Lyman
11—Wells, York (biennially)
12—Cornish and Parsonfield
13—Saco
14—Alfred and Kennebunk
15—North Berwick and Berwick

	Waldo								Washington									
Representatives Serving:	1	2	3	4	5	6	7	8	1	2	3	4	5	6	7	8	9	10
Single Terms	10	10	4	10	6	8	7	5	3	1	4	7	8	1	8	7	6	1
Two Nonconsecutive Terms			1			1		1						1	1		1	
Three Nonconsecutive Terms																1		
Two Consecutive Terms			2		2				2		3		1	2			1	3
Three Consecutive Terms								1	1									
Four Consecutive Terms																		
Two Consecutive Terms Plus One Other Term							1					1		1				1
Four Consecutive Terms Plus Five Consecutive Terms										1								

Waldo Districts

1—Swanville, Waldo, Knox, etc.
2—Palermo, Burnam, etc.
3—Belfast
4—Liberty, Freedom, etc.
5—Searsport, Stockton
6—Troy, Jackson, Monroe, Prospect
7—Islesboro', etc.
8—Frankfort and Winterport

Washington Districts

1—Eastport
2—East Machias, Whitneyville, etc.
3—Dennysville, Lubec, etc.
4—Pembroke, Robbinston, Perry
5—Cherryfield, Steuben
6—Baileyville, Danforth, Princeton, etc.
7—Columbia, Machias, etc.
8—Machiasport, Cutler, etc.
9—Jonesport, Jonesboro', Addison, etc.
10—Calais

APPENDIX K

PARDONS ISSUED: 1824-1900 AND AN EXAMINATION OF PARDONS: SELECTED YEARS

Year	Whole Number of Convicts	Number Pardoned	Year	Whole Number of Convicts	Number Pardoned
1824	70	6	1844	107	5
1825	114	3	1845	104	4
1826	128	9	1846	88	5
1827	123	3	1847	92	2
1828	126	8	1848		3
1829	146	5	1849	98	5
1830	134	2	1850	112	13
1831	139	5	1852	127	11
1832	141	3	1856	125	13
1833	125	12	1857	140	10
1834	108	6	1861	171	13
1835	105	8	1864	130	14
1837	110	7	1865	108	6
1838	115	3	1866	161	13
1839	109	10	1867	191	16
1840	98	6	1868	196	21
1842	73	6	1869	226	19

Year	Whole Number of Convicts	Number Pardoned	Year	Whole Number of Convicts	Number Pardoned
1870	227	11	1886	230	
1871	230	18	1887	223	
1872	226	13	1888	205	
1873	186	7	1889	206	
1874	181	5	1890	215	
1875	190	11	1891	224	
1876	214	5	1892	202	
1877	246	6	1893	183	
1878	279	9	1894	197	
1879	253	8	1895	209	
1880	259	13	1896	210	
1881	248	9	1897	255	
1882	226	8	1898	273	
1883	217	7	1899	272	
1884	212	10	1900	267	
1885	228	6			

Source: Maine State Prison Reports for the corresponding years. Information unavailable for missing years. "Whole number" refers to total number of convicts in prison for that year or any fraction thereof.

1868.

Crime	Sentence	Time Served
Robbery	4-0	2-7½
Larceny	4-0	0-6½
False Pension Claim	1-6	0-2
Assault to Ravish	5-0	3-2½
Murder	to be hanged	3-2½
Burglary	2-0	0-8½
Larceny	7-0	2-2
Larceny	3-0	2-6
Robbery	7-0	2-2½
Robbery	7-0	2-2½
Larceny	3-0	1-5½
Rape	Life	1-9½
Adultery	2-0	1-9½
Arson	6-0	4-9½
Larceny	2-0	1-8
Assault to Kill	1-0	0-6
Larceny	3-0	1-9½
Larceny	1-0	0-10
Larceny	1-6	1-2½
Assault to Rob	3-0	1-7½
Burglary	2-6	1-1

1869.

Crime	Sentence	Time Served
Assault to Kill	7-0	1-9
Larceny	4-0	2-9
Robbing the Mail	10-0	5-6
Robbing the Mail	10-0	6-8
Robbing the Mail	10-0	6-8
Burglary	7-0	2-10
Assault to Ravish	4-0	2-4
Manslaughter	5-0	3-3
Mayhem	10-0	0-7
Bigamy	2-0	0-4
Robbery	15-0	3-7
Larceny	6-0	3-0
Mayhem	2-0	1-10
Malicious Mischief	2-0	1-10
Larceny	3-0	2-6
Manslaughter	10-0	3-11
Burglary	Life	12-8
Larceny	5-0	4-0
Larceny	2-0	1-3

Sentence and time served is given in years and months.
Source: Prison Reports for corresponding years.

1882.

Crime	Sentence	Time Served
Larceny	4–0	3–1
Manslaughter	3–0	2–8½
Rape	7–0	3–0
Arson	Life	1–8
Assault to Rape	4–0	1–8
Larceny	3–0	1–7
Rape	5–0	2–0
Forgery	2–0	1–11

1883.

Larceny	3–0	2–3
Burglary	4–0	2–5
Arson	2–0	0–7½
Larceny	3–0	2–1½
Assault and Battery	5–0	3–7½
Assault to Kill	3–0	0–10½
Second Degree Murder	Life	2–11

1897.

Crime	Sentence	Time Served
Embezzlement	10–0	3–10
Embezzlement	10–0	4–1
Rape	15–0	4–1
Compound Larceny	5–0	3–5
Assault to Kill	4–0	2–6
Common Thief	6–0	1–11

1899.

Murder	Life	25–6
Robbery and Assault to Kill	Life	11–0
Robbery and Assault to Kill	Life	11–0
Rape	15–0	10–8
Receiving Stolen Goods	5–0	3–1
Assault and Battery	4–0	2–9½
Common Thief	6–0	2–1½

APPENDIX L

A COMPARISON OF CORPORATIONS ORGANIZED UNDER GENERAL LAWS AND THOSE CHARTERED BY SPECIAL STATUTES: 1870-1899

Year	Manufacturing and Mining Companies	Railroads (Includes Electric Railways)	Insurance Companies	Savings Banks and Savings and Loan Associations	Water Transportation and Service	Heat, Light, and Power Companies	Water Supply Companies	Telephone and Telegraph Companies
1870	31-12	8-0	5-0	8-0	14-0	0-0	1-0	1-0
1871	17-16	7-0	5-0	8-0	13-0	0-2	1-0	1-0
1872	20-6	14-0	6-0	7-0	8-0	1-1	0-0	2-0
1873	39-24	6-0	9-0	6-0	7-0	1-0	0-0	1-0
1874	64-19	7-0	5-0	3-1	8-0	0-0	4-0	3-0
1875	43-16	5-0	4-0	11-0	7-0	0-0	2-0	0-0
1876	1-13	1-1	1-0	0-0	5-0	0-0	1-0	1-0
1877	2-25	0-2	0-0	1-0	0-2	0-0	0-0	2-0
1878	0-14	0-2	0-0	0-0	5-2	0-0	2-1	1-0
1879	1-24	1-1	1-0	1-0	2-3	0-0	1-0	3-0
1880	0-57	1-0	0-0	0-0	8-2	0-1	2-0	4-0
1881	9-243	10-5	0-0	1-0	6-5	2-3	4-0	3-0
1882	-223	-3	-0	-0	-9	-14	-0	-3
1883	5-201	2-3	0-0	2-2	8-5	3-17	3-4	8-1
1884	-188	-1	-0	-0	-5	-10	-0	-0
1885	1-216	3-2	2-0	1-0	7-2	0-7	7-0	4-0

Year	Manufacturing and Mining Companies	Railroads (Includes Electric Railways)	Insurance Companies	Savings Banks and Savings and Loan Associations	Water Transportation and Service	Heat, Light, and Power Companies	Water Supply Companies	Telephone and Telegraph Companies
1886	-211	-3	-0	-2	-4	-15	-6	-0
1887	1-224	13-3	4-0	13-6	8-5	9-14	26-3	1-0
1888	-282	-2	-2	-5	-6	-20	-0	-0
1889	5-342	9-1	4-0	20-6	10-6	4-13	14-1	8-0
1890	-456	-0	-1	-6	-7	-8	-1	-0
1891	7-417	8-2	1-0	20-2	11-3	4-2	19-2	6-2
1892	-495	-1	-0	-0	-6	-3	-3	-0
1893	1-437	5-0	1-4	10-0	11-8	8-5	16-10	6-0
1894	-393	-1	-0	-1	-5	-0	-3	-0
1895	1-438	5-0	3-0	10-0	3-4	3-3	19-9	5-2
1896	-420	-2	-0	-1	-4	-4	-5	-5
1897	1-466	4-4	0-0	6-1	8-7	5-11	13-9	3-6
1898	-445	-1	-0	-1	-3	-7	-5	-5
1899	1-781	2-0	0-0	6-1	5-4	2-4	10-5	0-6

Sources: Corporation reports as found in the Public Documents.

APPENDIX M

TAXATION: A COMPARISON WITH OTHER STATES IN 1874 AND 1889 AS ADAPTED FROM THE SPECIAL TAX COMMISSION REPORTS IN THE PUBLIC DOCUMENTS

1874

State	Railroad Taxation	Taxation of Savings Banks	Insurance Taxation
Massachusetts	Taxed as any business corporation.	3/4% on deposits.	1% to 2% gross on all but life.
Vermont	1% of value of real and personal estate.		Taxed only on retaliatory principle.
Connecticut	1% on market value of whole property.	½% on real estate investments; 1% on all others.	1% on non-resident stock plus ½% on assets.
New Hampshire	Judges of Supreme Court determine tax.	1% on deposits.	½% on gross premiums.
New York	Taxed locally.		2% on gross premiums except life insurance.
Kansas	Same as all business corporations.		2% on gross premiums.
Illinois	Same as all business corporations.		Taxed only on retaliatory principle.
Rhode Island	Local tax on personal and real estate.	¼% on deposits and reserve.	Domestic: 01¢ on every $100 face; foreign: 2% gross.
Indiana	Uniform rate set by state board.		3% net on premiums.
Pennsylvania	Mill tax or flat rate.	Same as business corporations or 1% on par value of stock.	3% gross on premiums of foreign companies.
Ohio	Munincipal taxation, state gets a share.	Same as Railroads.	Same as Railroads.
Wisconsin			2% on fire premiums.
Kentucky	35¢ per $100 value--set at $20,000 a mile.	50¢ per $100 of capital stock	2½% on gross premiums.
New Jersey	½% of capital stock or flat annual rate.	On charter of incorporation only.	2% on gross premiums.
Maryland	½% on gross receipts	1½% on all premiums over $20,000.	
Michigan	2% to 3% on gross receipts.		

1889

State	Railroad Taxation	Taxation of Savings Banks	Insurance Taxation
Massachusetts	Franchise tax.	½% on deposits.	2% on gross premiums; ¼% face value of life policies.
Vermont	2% to 5% based on gross earnings per mile.	½% on deposits.	
Connecticut	1% on value of stock and on bonded debt.	½% on deposits less real estate value.	2% on gross premiums of foreign companies.
New Hampshire	2% on entire capital and debt.	1% on deposits less real estate value.	1% on gross premiums.
New York	½% on gross receipts.	Real estate and stocks taxed as property.	Domestic fire--2% gross, same with foreign life.
Kansas	Based on value per mile, taxed locally.		2% gross on premiums of foreign companies.
Illinois	Assessed on state level.		
Rhode Island		Tax on deposits.	2% gross on all.
Indiana	Assessed on state level.		3% net on all.
Pennsylvania	Tonnage tax plus 3/4% on gross receipts.	1% on par value of shares; otherwise exempt.	2% gross on all.
Ohio	Assessed on county level		
Wisconsin	Exempt except for local improvement tax.		2% gross on all.
Virginia	1% on net income plus mill taxes.		1% gross on all.
New Jersey	½% of state assessors' value.		2% gross on fire and marine policies
Maryland	½% of gross receipts	¼% on deposits.	1½% net on all.
Michigan	2% to 3% based on gross receipts.		2% to 3% on all.

APPENDIX N

TOTAL DEPOSITS IN SAVINGS BANKS IN MAINE: 1860-1900

Year	Number of Depositors	Total Amount	Year	Number of Depositors	Total Amount
1860		$ 1,446,458	1881	87,977	26,474,555
1861		1,620,270	1882	95,498	29,503,890
1862	11,833	1,876,165	1883	101,822	31,371,869
1863	14,442	2,641,476	1884	105,680	32,913,835
1864	18,506	3,672,976	1885	109,398	35,111,600
1865	18,308	3,336,828	1886	114,691	37,215,071
1866	19,786	3,946,434	1887	119,229	38,819,643
1867	24,593	5,598,600	1888	124,562	40,969,663
1868	30,528	8,032,247	1889	132,192	43,977,085
1869	39,527	10,839,955	1890	140,521	47,781,167
1870	54,155	15,829,792	1891	146,668	50,278,452
1871	69,411	22,787,802	1892	155,333	53,397,949
1872	81,320	26,154,353	1893	153,922	53,261,309
1873	91,398	29,556,524	1894	155,704	54,531,223
1874	96,799	31,051,964	1895	160,216	56,376,144
1875	101,326	32,083,314	1896	163,115	57,746,896
1876	90,621	27,818,765	1897	167,879	59,598,349
1877	88,661	26,898,433	1898	169,714	60,852,557
1878	77,978	23,173,112	1899	177,589	64,009,387
1879	75,443	20,978,140	1900	186,327	67,240,439
1880	80,947	23,277,675			

All figures rounded off to nearest dollar. Source: Bank Reports, 1890-1900, which contain figures for earlier years.

APPENDIX O

A COMPARISON OF INDICTMENTS FOR LIQUOR LAW VIOLATIONS WITH TOTAL INDICTMENTS AS FOUND IN THE REPORTS OF THE ATTORNEY GENERAL: 1861:1900

County	1861	1862	1863	1864	1865	1866	1867	1869	1870
Androscoggin	9-47	11-27	10-27	10-32	16-31	44-102	76-137	35-100	95-130
Aroostook	0-5	1-5	0-13	0-10	0-5	0-6	0-7	0-9	0-8
Cumberland	21-65	29-87	8-59	23-77	10-30	31-112	27-114	36-148	23-119
Franklin	1-8	3-11	2-13	2-15	2-13	2-16	14-27	0-2	3-20
Hancock	0-10	4-9	0-6	0-4	0-1	8-27	9-30	12-27	17-23
Kennebec	18-48	10-36	0-20	1-24	9-45	24-64	5-44	24-56	10-41
Knox	6-22	0-1	30-37	22-33	24-33	30-40	5-9	9-12	7-15
Lincoln	12-21	28-39	33-61	21-42	16-33	39-53	9-25	1-8	3-15
Oxford	2-19	6-12	2-13	5-28	13-25	26-42	2-11	31-41	25-33
Penobscot	25-62	8-53	10-81	6-45	12-46	23-95	19-70	15-88	39-91
Piscataquis	0-5	0-5	0-6	0-3	0-9	0-5	0-3	0-10	0-9
Sagadahoc	0-15	0-12	10-13	12-16	3-14	0-9	0-7	35-44	5-16
Somerset	15-32	3-20	4-18	26-35	13-32	9-23	12-31	20-26	0-16
Waldo	9-23	1-18	27-46	24-40	25-39	17-29	15-40	46-65	18-50
Washington	13-27	10-26	29-40	23-35	30-40	26-48	19-30	40-56	29-50
York	10-45	4-36	1-22	15-53	15-50	12-31	13-57	13-49	16-42

County	1871	1872	1873	1874	1875	1876	1877	1878	1879
Androscoggin	88–107	38–84	20–75	29–93	63–123	79–233	85–245	59–113	44–97
Aroostook	0–4	0–8	8–15	4–10	9–36	63–106	71–136	18–32	4–24
Cumberland	11–84	188–271	304–383	186–251	106–186	282–423	225–434	222–302	184–251
Franklin	0–18	10–14	0–7	8–23	12–23	36–71	31–60	3–18	2–8
Hancock	1–19	1–10	75–80	2–34	22–37	17–61	3–65	5–23	7–15
Kennebec	4–52	1–40	16–41	27–71	27–71	249–332	76–326	102–182	82–154
Knox	18–43	6–22	17–24	10–23	12–21	102–137		7–20	22–36
Lincoln	0–1	0–9	10–13	18–22	10–26	36–58	46–69	4–10	5–12
Oxford	41–53	2–21	14–27	11–27	2–14	30–125	35–128	5–20	3–17
Penobscot	9–71	24–80	16–64	17–75	110–151	886–1128	850–1162	120–289	7–104
Picataquis	14–20	0–8	1–4	6–20	0–9	5–45	11–50	4–12	1–14
Sagadahoc	4–13	2–6	5–11	6–18	2–12	31–45	43–75	10–16	8–18
Somerset	7–23	26–44	6–29	20–38	19–33	138–220	122–187	16–41	12–40
Waldo	6–27	0–27	0–6	23–38	10–28	75–142	60–184	27–65	5–34
Washington	13–23	13–24	15–24	18–46	24–44	31–93	10–89	4–22	23–44
York	27–70	–69	–90	205–248	78–109	240–328	153–263	43–85	48–74

County	1880	1881	1882	1883	1884	1885	1886	1889
Androscoggin	59–110	66–170	34–87	40–119	133–234	44–109	68–95	95–129
Aroostook	21–40	13–25	11–39	24–40	7–13	2–22	25–38	6–16
Cumberland	82–290	174–298	217–381	155–323	156–281	198–416	233–388	154–242
Franklin	1–14	4–7	10–15	11–29	13–29	7–22	10–27	10–40
Hancock	14–26	3–14	4–26	7–31	9–31	13–16	26–44	12–30
Kennebec	19–191	135–210	43–79	57–94	229–253	142–186	120–155	244–289
Knox	23–36	15–50	24–90	37–94	11–66	38–63	14–63	32–45
Lincoln	2–14	4–8	5–12	17–26	10–30	4–26	8–20	1–6
Oxford	6–27	10–27	10–23	12–22	15–19	13–29	11–20	3–24
Penobscot	15–106	37–78	54–81	59–125	102–152	110–176		85–145
Piscataquis	8–18	3–8	0–8	0–31	5–19	6–19	5–22	2–11
Sagadahoc	17–26	20–30	21–33	31–48	22–41	15–21	5–21	1–12
Somerset	13–38	11–21	16–39	32–48	32–64	30–51	18–35	36–52
Waldo	4–24	11–53	1–48	13–74	8–71	93–109	60–85	35–59
Washington	11–37	29–47	14–26	17–43	4–19	21–49	1–20	23–47
York	26–66	111–154	163–186	116–196	63–123	62–95	44–74	47–84

County	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900
Androscoggin	84-101	112-129	107-300	146-248	292-366	191-247	363-444	208-274	309-399	403-474
Aroostook	3-16	3-37	14-56	91-134	64-80	79-117	53-68	43-65	110-138	134-174
Cumberland	202-286	145-309	106-300	113-282	44-173	69-235	144-249	83-154	238-324	272-366
Franklin	9-18	11-25	4-19	12-21	13-31	8-23	15-38	13-30	9-15	27-40
Hancock	94-118	35-60	78-109	98-127	93-117	62-104	78-112	68-116	83-97	91-109
Kennebec	154-199	115-170	148-187	140-194	167-196	158-204	165-231	132-174	299-345	175-207
Knox	36-59	74-110	93-121	58-92	19-116	15-90	69-106	84-108		15-21
Lincoln	13-22	2-12	16-22	4-16	21-42	14-34	12-35	14-28	23-47	30-57
Oxford	2-16	6-18	23-37	16-57	14-36	13-38	15-57	16-53	17-31	29-47
Penobscot	49-96	295-341	347-398	355-441	359-440	303-368	319-392	302-362	303-365	268-337
Piscataquis	13-21	40-48	46-52	5-17	29-37	17-23	21-29	28-38	46-52	40-41
Sagadahoc	12-28	24-37	29-56	13-19	9-23	66-77	28-40	14-41	32-98	44-106
Somerset	32-48	25-58	44-60	40-71	55-81	49-63	90-152	77-119	42-69	72-97
Waldo	19-29	54-60	214-269	289-395	48-62	79-91	41-45	0-55	31-51	51-60
Washington	21-54	43-58	12-27	17-63	8-48	30-57	58-94	59-84	76-113	16-122
York	67-92	66-97	46-79	47-117	96-147	72-102	160-241	119-175	292-353	135-205

APPENDIX P

PROHIBITION: SUCCESS OR FAILURE?

A SELECTION OF CONTEMPORARY OPINION

GOVERNOR HUBBARD—1852:

"If we can legislate for the extermination of ravenous *beasts we may for the extermination of this greatest of all evils*— which reduces the human form divine to a condition worse than that of savages. Congress has the power to regulate commerce, but not to determine what shall be the subjects of commerce. The State may prohibit those articles of trade which are detrimental to community, and legislate for the protection of its own citizens." (Maine Farmer, January 29, 1852).

REVEREND MR. THURSTON—1852:

"God is on our side; and if he be for us who can be against us?" (Maine Farmer, January 29, 1852).

GOVERNOR CROSBY—1853:

"It has been made the instrument ... for the redemption of the degraded, the temporal salvation of the lost ... it has been a moral firebrand in the hand of the fanatic ... it has been prostituted to the base purposes of the demagogue." (Public Documents, 1853, 4:4-5).

COMMITTEE REPORT—1856:

"The system is impracticable as well as unwarrantable." (Senate Documents, 1856, 15:22).

MAYOR OF BANGOR—1865:

He claimed that prohibition had not worked and recommended a tightly-controlled license law. (Annual Report of Bangor, 1865, p. 11).

STATE LIQUOR COMMISSIONER—1865:

"And to enforce a law of absolute prohibition ... must be considered utterly impracticable, and a hopeless task, unless, in the advancement of science, a substitute for alcohol shall be discovered." (Senate Documents, 1865, 3:2-3).

MAYOR OF BANGOR—1865:

"It is probable that much liquor is obtained under the false pretence of sickness." (Annual Report of Bangor, 1865, pp. 12-13).

EDITOR OF THE MAINE FARMER—1866:

One "has only to go into our large towns and see where the young men assemble at saloons, where they indulge in drinking and gambling." (Maine Farmer, June 28, 1866).

ATTORNEY GENERAL—1867:

"Either very little intoxicating liquor is sold in most of the counties, or there is a failure to enforce the law." (Attorney General's Report, 1867, p. 21).

STATE LIQUOR COMMISSIONER—1871:

He stated there was little enforcement of the law in the larger communities. (Liquor Commissioner's Report, 1871, pp. 3-4).

MAYOR OF BANGOR—1872:

"It would be much easier to enforce them could we have a healthy public sentiment in their favor. But we have no right to wait for this." (Annual Report of Bangor, 1872, p. 6).

MAYOR OF BANGOR—1874:

"Occasional efforts have been made in this city to strictly enforce the law, which has had the effect to rally its opponents, and re-action has been the result." (Annual Report of Bangor, 1874, p. 9).

EXCERPTS OF REPORTS OF COUNTY ATTORNEYS—1874:

Androscoggin: The law is violated almost constantly although it is strictly enforced except for Lewiston.

Aroostook: There is diligent prosecution; liquor is sold in secret places only.

Cumberland: The law is enforced and convictions gotten.

Franklin: The law can be enforced only if the people cooperate.

Hancock: The liquor trade is concentrated in Ellsworth.

Kennebec: There are some prosecutions but public sentiment is not all that favorable.

EXCERPTS OF REPORTS OF COUNTY ATTORNEYS--1874 (continued):

Knox: The law is ineffectual even when enforced.

Prohibition increases low groggeries.

Lincoln: The traffic is confined to the larger towns; total suppression will be had only when the people support the law.

Penobscot: Greater vigilance and a temperance revival has resulted in fair success.

Piscataquis: Enforcement is achieved; the town agencies should be abolished.

Sagadahoc: The problem is under control.

Somerset: The greatest trouble is with the "Boston runners."

Washington: The wholesaler must be eliminated.

York: The new era "is near at hand with the continuing temperance revival." (Attorney General's Report, 1874, pp. 14-23).

GOVERNOR DINGLEY--1875:

"Law will accomplish but little alone; but sustained and applied by a public sentiment which brings vividly home to a large majority of citizens the magnitude of the evils of intemperance, it has proved in this State to be an important and indispensable adjunct in the promotion of temperance." (Senate Journal, 1875, p. 37).

BANGOR CITY LIQUOR AGENT—1876:

He stated that a large part of the population was unwilling to give up intoxicating liquor and that further stringent legislation will guarantee a license law in the near future. (Annual Report of Bangor, 1876, pp. 90-92).

COMMITTEE REPORT—1879:

The Maine Law is severe but not effective. Liquor agencies are often corrupt. Every nation has its stimulants. "Cheap light wines and nutritious malt beverages" should not fall under the liquor law. (House Documents, 1879, 99:1-5).

PRISON INSPECTORS—1884:

"Intemperance is not a cause of crime; it is a crime more against society and the family than against the State .... Our laws relating to it are peculiar; fines for the rich and imprisonment for the poor .... Intoxication is on the increase .... In many of our counties prohibition does not seem to affect or prevent it. The drunkard in the jail will tell you that when out he can get all the intoxicating liquors he wants." (Prison Inspectors' Report, 1884, p. 10).

PRISON INSPECTORS—1885:

"In several counties no sentences are seen for drunkeness or for selling intoxicating liquors. It is probable that there are different ways of administering the law in different counties."

(Prison Inspectors' Report, 1885, p. 42).

GOVERNOR BOLWELL—1887:

In larger cities and towns, on the seaboard and at railroad centers, there is poor enforcement of prohibition. (Senate Journal, 1887, pp. 31-32).

DR. CHARLES E. CRANDALL—1887:

"The public sentiment of the State is emphatically in favor of universal temperance. It is the wish of every parent, and the united demand of all classes." (School Superintendent's Report, 1887, pp. 132-133).

PENOBSCOT INDIAN AGENT—1890:

The greatest menace to the Indian is liquor which is freely sold in many neighboring towns. (Penobscot Indian Agent's Report, 1890, p. 9).

STATE SUPERINTENDENT OF SCHOOLS—1890:

Temperance instruction has not worked because of incompetent teachers, unwillingness of parents to purchase suitable texts, and the inertia of public opinion. (School Superintendent's Report, 1890, pp. 62-63).
