

3-1-2006

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Recommended Citation

Cody, Howard (2006) "Maine Politics Update 2004: Can Mainers Sustain 'The Way Life Should Be'?", *New England Journal of Political Science*: Vol. 1: No. 2, Article 6.

Available at: <https://digitalcommons.library.umaine.edu/nejps/vol1/iss2/6>

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Maine Politics Update 2004: Can Mainers Sustain “the Way Life Should Be?”

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Introduction

When Maine’s voters decisively rejected a Penobscot and Passamaquoddy Indian-run casino in Sanford last November, they sent a clear signal that their state’s relatively moralistic political culture (Elazar 1994) survives uneasily in a largely individualistic national polity—for now. Yet this verdict may represent the “last hurrah” for heavily taxed Mainers whose fastidiousness is becoming increasingly unsustainable. Mainers desire, even expect, several quite incompatible things at once. They want tax relief, especially on Maine’s relatively high property taxes; they want economic development, investment, and job creation; and they expect a high level of government services. At the same time they wish to preserve their cherished image of Maine as a morally and environmentally pristine “place apart” that suffers none of the depravity visited upon less upright states with morally or environmentally unsound casinos or liquefied natural gas terminals like the one Harpswell voters defeated in a March 2004 referendum out of fear that it would “spoil the town’s character” (Associated Press 2004a). They expect their governor and legislature to provide good government, but they do not hesitate to overrule or bypass their elected representatives through citizen initiatives.

The year 2003 offered no break from Maine’s political controversies. Democratic Governor John Baldacci, in his first year in office, maintained strong popularity but seemed little more than a spectator as 2003’s politics-by-referenda

played out (Cody 2003, 201-212). The state has recently filled its once quiet odd years with citizen-initiated referenda on a wide array of concerns that engage Mainers fully as much as a gubernatorial election (Cody 2003, 204-205). Three controversial November referenda, on the proposed casino, one or two “racinos” (slot machines at established harness race tracks in or near Scarborough and Bangor) and a three-option verdict on a Maine Municipal Association proposal to force the state to assume 55% of towns’ primary and secondary education costs, dominated Mainers’ attention for much of late 2003. The referenda attracted 54% of registered voters to the polls, easily surpassing most states’ turnouts in presidential elections (Higgins 2003a).

The votes proved far from definitive. The fates of the racinos and the tax proposal remained in doubt into early 2004. The casino initiative failed by a two-to-one margin after leading in polls until late September, while the luckily less publicized racinos won endorsement by the much closer margin of 53% to 47%. The MMA proposal (as Question 1A) faced opposition from a fallback plan (1B) supported by the governor promising to reach the same level of state support but over seven years, and from a neither-of-the-above third option (1C). In the event, 1A took 38% of the votes, 1B received 35%, and 1C got 27%. Since there was no majority verdict, in the absence of a legislated alternative to avert a revote option 1A will return to the voters for a straight up-or-down decision as part of the party primary election slated for June 2004. The MMA initiative is expected to pass and create still another fiscal crisis in Augusta (Porter 2004).

In one sense, Maine’s elected officeholders of both parties are allied in a common cause. They must avert their marginalization from citizen initiatives. Maine’s political culture fosters a tension that necessitates but also complicates a policymaking style characterized by bargaining and accommodation. Frequent citizen initiatives can erode deliberative institutions’ moral authority and legitimize polarization by implying that there are two all-or-nothing sides to

every issue. Politics as the art of the possible, in the form of policymaking by elite compromise, faces a legitimacy crisis in a moralist culture prone to defining politics as a struggle between right and wrong, not as a negotiation between differing interests. Citizen initiatives can thrive in a moralistic culture; note their prevalence in California and Oregon as well as in Maine. Supporters of initiatives wish to bypass compromising politicians and uphold values uncorrupted by politics as usual. Even when they propose drastic tax and revenue reductions, initiative sponsors accept no responsibility to find the revenue the state needs to supply essential services (Lawton 2004).

Maine and Casino Gambling

Although Scarborough Downs and Bangor Raceway have long histories as harness racing venues with the usual betting, and while Maine has participated in lotteries for years, the Penobscot-Passamaquoddy casino proposal caught Mainers unprepared for such a facility. The tribes negotiated the Maine Tribal Gaming Act with Las Vegas developer Marnell Corrao. The initiative's passage would have erected a \$650 million resort complex featuring an 875-bed hotel, nine restaurants, a convention center, and a casino in the declining mill town of Sanford in interior southern Maine. By no coincidence Sanford is only seventy miles from Boston, closer than Foxwoods. Casino proponents and opponents both invoked quality of life concerns to justify their positions. The pro-casino group Think About It promised that the casino would create 5000 jobs at the complex, itself, and an equal number to provide ancillary services nearby. The state would receive 25% of slot machine revenues (but nothing from other gambling) that might realize some \$100 million annually. The economically deprived tribes would realize \$50 to \$100 million.¹ The state government,

¹ Maine's Indians took their defeat hard. They charged racism and found further proof of 500 years of hollow promises, especially as voters endorsed non-Indian racinos while they were defeating the casino. Penobscot Chief Barry Dana, in a poignant open letter just after the referendum, told Mainers that the casino would have represented

including Governor Baldacci, wanted no casino. The tribes negotiated alone with the developer. Their agreement gave Maine less state revenue than most other casinos provide. It even had a provision that appeared to deny the state authority to change anything in the act. It did not help when Think About It claimed the facility would not resemble a casino and would assign only 12% of its space to “gaming.” Its appeal seemed to concede gambling’s immorality by implying that the facility would serve basically as a resort destination (in Sanford!) that happened to have a few slot machines on the premises.

Opponents, led by *Casinos-NO*, with less, but still sufficient, funding from iconic Maine institutions such as L.L. Bean, easily carried the argument once intense campaigning got underway. Their literature and television advertising invoked the casino’s threat to Maine’s “way life should be” and “place apart” stereotypes. But it went further: the negotiated deal was flawed and would generate too little state revenue, traffic density and crime rates would increase dramatically, gambling would lead to addiction and domestic violence, the state could not forbid a “kiddie” casino where children would gamble, other hotels and restaurants in the area would close because they could not compete, no one would be available for summer jobs on the southern coast because everyone would be working at the casino, wages at the casino would be low and the jobs dead-end, no out of state gamblers would come because of the Connecticut casinos’ popularity, Foxwoods has destroyed the quality of life for the residents of eastern Connecticut, and so on.²

Opponents did not openly argue that “real” Mainers should reject a project promoted by individuals and interests “from away” – and from Las

Indians’ gift to Maine. He also noted that opponents were offering Indians no alternative employment or revenue sources, Dana (2003). Also see Murphy (2003).

² These mutually contradictory arguments were presented “cafeteria-style.” Voters could choose the ones they liked best while discarding the others. For a discussion of casino-related letters to the *Maine Sunday Telegram*, which offered all of these arguments and ran 201 of them against the casino, see Porter (2003).

Vegas at that—but the implication was there. Also, Portland’s newspapers waged an unrelenting crusade against a casino, claiming among other things that the casino’s owners would take over the State House and buy control of Maine’s politicians as they have done in other states (Editorial, *Maine Sunday Telegram* 2003, 4C). Spending reached record levels, as Think About It raised some \$7 million and Casinos-NO just over \$3 million (Higgins 2003b). On the whole, Mainers rejected a casino because they thought it would change Maine—or the Maine they imagined—for the worse. Once that view took hold, late in the campaign, casino proponents had no chance. The casino proposal fared best among blue collar often Franco-American Democrats in the relatively poor inland and northern “other” Maine but it lost all sixteen counties. It attracted little support in NIMBY-minded Sanford and in the rest of Maine’s southernmost York County.

A Racino Comes to Maine (or Does It?)

As most Maine voters were rejecting the casino, they— or, more accurately, about 120,000 of them—simultaneously endorsed slot machines at harness tracks at or near Scarborough Downs and Bangor Raceway. Close to 400,000 voters, more than three-quarters of the total, either opposed both the casino and racinos (230,000) or supported both projects (160,000). But how to account for those 120,000 split votes? The answer probably lies in the perception that slot machines at existing tracks would not spoil Maine’s essential character. Besides, there was a well-organized campaign for the racinos, while gambling opponents, the governor included, concentrated their fire on the casino. Proponents depicted the racinos as *restoring* traditional Maine culture rather than destroying it, by reviving the horse farm economy and saving the failing harness

racino industry.³ In addition, the two racinos would create 300 jobs, and the state's 25% share of slot revenues (the same share that was too small for the casino was acceptable for the racinos) would reduce senior citizens' prescription drug costs and provide scholarships for Maine's postsecondary students. But first Scarborough and, then, nearby Saco and Westbrook rejected racinos in referenda (Canfield 2003). This left only upstate Bangor, which voted favorably and where the racino is proceeding. By early 2004 second thoughts had set in but, apparently, too late. Polls suggested that a racino would lose a standalone statewide vote, which the Portland papers duly called for (Tuttle 2004a; Editorial, *Maine Sunday Telegram* 2004a, 4C). Then, in April, the governor supported and then signed a bill to award the state 49% of slot revenues. Developer Penn National Gaming, hired to build the \$30 million, 1500 machine racino, denounced this deal. Penn National now will have to accept it or forego the project altogether (Tuttle 2004b; Tuttle 2004c). Bangor may get a racino and with it northern New England's only slots – for now.

Tax Issues

Experts on relative taxation generally agree that Maine imposes one of the most oppressive state and local tax regimes in the country. Some studies place Maine's taxes close to the top in relation to income.⁴ The Maine Taxpayers Action Network, headed by longtime anti-tax activist Carol Palesky, has succeeded in placing a California Proposition 13-style property tax cap of 1% of assessed values on the November 2004 statewide ballot. If passed, this initiative would cost local governments more than half of their total revenues, some \$500 million in all, and generate an unprecedented fiscal crisis. The 2003 ballot's

³ A probably typical Bangor split voter asserted that the racino "helps what's already been here for a long time... I've seen Foxwoods and I know what it does, and we don't want that," Tuttle (2003).

⁴ Maine's state and local taxes, at 14% of personal income, are the second highest in the nation after New York. On Maine's tax burden compared to other states, see Bouchard (2003).

Maine Municipal Association proposal, endorsed by the Maine Education Association, to force the state to contribute 55% of municipalities' primary and secondary education costs, would make Augusta give towns some \$250 million that theoretically might compensate them for much of their lost revenues from the Palesky proposal's implementation. The MMA initiative appears on the June ballot.

Perhaps too many tax reallocation plans circulated in early 2004, especially when House and Senate Democrats advanced competing proposals. When the Democrats imposed their budget in a party vote, minority Republicans responded with a constitutional amendment to cap spending and require a two-thirds vote of the legislature to create or raise taxes. Governor Baldacci contributed little to the cause beyond enrolling Maine in the Powerball lottery. In early 2004 two emotionally-charged issues emerged. The governor proposed to close a \$128 million shortfall in Medicaid funding with painful cuts to services. There also is growing pressure to consolidate inefficient local governments and school districts. Such a move would face stiff resistance but could save millions of dollars every year.⁵

Recall Samuel Johnson's observation that "when a man knows he is to be hanged in a fortnight, it concentrates his mind wonderfully." The Palesky initiative may put Maine's legislators in that position in a special 2004 summer session. But the zero-sum nature of negotiations to redistribute the burden in high-tax Maine gives them little room to maneuver. If a consensus on taxes cannot be reached, Attorney General Stephen Rowe and the legislature may ask the Supreme Judicial Court for a "solemn occasion" nonbinding advisory

⁵ For a table laying out ten tax reform plans of late March 2004, see Bell (2004b). The Democrats' budget is discussed in Higgins (2004a). The Republicans' constitutional amendment is considered in Bell (2004a). On the Powerball lottery that may raise an additional \$9 million for Maine, see Editorial, *Bangor Daily News* (2004b), 13-14. On the politically explosive issue of consolidating local governments and schools, see Porter (2004).

opinion on the tax cap's compatibility with Maine's constitution (Higgins 2004b). The issue concerns whether the state constitution permits Maine to lower property tax on those who purchased homes before the initiative while raising them on subsequent buyers. Palesky modeled her initiative on California's, which withstood challenges all the way to the United States Supreme Court. However a court reference works out, proposing such an appeal betrays a desperation conceding that traditional inter-elite negotiation has failed. By the end of April House and Senate Democrats managed to erase the Medicaid shortfall in a supplemental budget. But they gave up April 30 after failing to decide how to fund property tax relief. House Democrats favored raising alcohol and tobacco "sin" taxes while Senate Democrats held out for a general sales tax increase to 6%. The governor and Republicans generally stayed on the sidelines (Carrier 2004; Higgins 2004c).

Looking Towards the 2004 Election

Maine will conduct no statewide races in November besides the Presidential election. That, along with possible referenda especially on the momentous Palesky initiative, may be enough. The national Republicans and Democrats have designated Maine as one of eighteen targeted states for the Presidential race (Jansen 2004a). Vice President Al Gore carried the state by a sufficiently narrow 53%47% margin of the two-party vote in 2000 that by March 2004 Mainers already were enduring a barrage of television appeals for and against President George W. Bush and Massachusetts Senator John Kerry. The Bush campaign is running advertising specifically tailored for Maine, a novelty in Presidential elections. These advertisements warn that a weak-on-defense Kerry would close Bath Iron Works (Associated Press 2004b). Also targeted is freshman Second District Congressman Mike Michaud, who narrowly held Governor Baldacci's upstate seat for the Democrats in 2002. But well-financed Michaud and well-entrenched First District Congressman Tom Allen face

political neophytes in November. Michaud's opponent, Brian Hamel, is the little known president of the Loring Development Authority in the far north, while Allen will face Charles Summers, an aide to Senator Olympia Snowe. The Second District has been enlarged to accommodate Maine's relentless population migration southward. It now includes Democratic mill towns Waterville and Winslow, where former mill worker Michaud should do well (Jansen 2004b; Wolf 2004).

Kerry should carry Maine in November, especially if, as expected, Ralph Nader captures fewer votes than in 2000. Allen and Michaud should retain their seats. But the Maine legislature's majority Democrats, especially in the Senate where they hold a one-seat edge, are being blamed for failing to relieve Mainers' tax exhaustion, particularly respecting property tax (Editorial, *Maine Sunday Telegram* 2004c, 4C). The unusual situation of Democratic majorities in both houses alongside a Democratic governor poses serious dangers by making successful buck-passing nearly impossible. Mainers will hold neither Republicans nor the Supreme Court accountable if their tax concerns are not resolved. How or even whether Maine Democrats handle the tax issue, perhaps in a special summer legislative session, represents the most consequential story in Maine's politics as 2004 progresses.

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