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Kenneth T. Palmer
University of Maine

Marcus LiBrizzi

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KENNETH T. PALMER
MARCUS LiBRIZZI

DEVELOPMENT OF THE MAINE CONSTITUTION: THE LONG TRADITION, 1819-1988

State constitutions are important historical documents through which political and social development can be witnessed. This is especially true in Maine, one of only nineteen states that have retained their original charters. The 158 amendments in the Maine constitution provide valuable insight into the critical preoccupations of the past. This exceptionally large body of amendments also documents the degree to which the structure of the original constitution has been retained. Maine has been largely successful in preserving its constitution's form as well as its "spirit." This challenge has been played out in the amendment process.

Before looking at how the content of Maine's constitution has survived 170 years of change, a glance at how the form of this document has been maintained seems in order. The current 158 amendments to the Maine constitution are codified periodically into the text of the document, instead of appearing as riders at the end of the document as the amendments do in the federal constitution. This codification has been conducted by the chief justice of the Maine Supreme Judicial Court since 1876 (mandated under the 21st amendment). The intention behind this process is to keep the charter comprehensible to the people. For scholars, however, it often necessitates the task of "dissecting" the constitution into each of its constitutional resolves.

Because of the codification, the format of Maine's current constitution is the same as the 1819 charter. Both are made up of ten articles. While retaining the basic subject matter of the original document, each article in the current constitution has been expanded to encompass the significant amount of material which has been added over the years. Despite such accumulations, Maine's charter still reflects the brevity which had been

Augusta during Maine's politically formative years. The evolution of Maine's constitution, through the amendment process, demonstrates the mechanics of adapting political institutions to changing social and economic needs. Illustration from Maine Historic Preservation Commission, *The State House and the Blaine House* (1981)

one of its original characteristics. This has largely been accomplished because the codification process omits all information that has been changed or repealed. In 1986, Maine's constitution was the twelfth shortest in the Union. Of the eleven states with shorter charters, the constitutions in only two of them (Vermont and New Hampshire) predated the adoption of the Maine instrument. The other states had either entered the Union after Maine, or had replaced their original charter. Thus, Maine has had a much longer time than most states to add amendments.

MAINE'S CONSTITUTION IN 1819

As part of the process of gaining statehood in 1820, Maine citizens called a Constitutional Convention in October 1819. The assembly, which met at the First Parish Meeting House in Portland, was composed of delegates from every incorporated

town in the District of Maine. Most of these delegates appear to have earned their livelihood from the sea (shippers, ship builders, ship captains); the second greatest group of delegates belonged to the bar.[1] Because the state had been part of Massachusetts, some delegates felt Maine should rely on the Massachusetts constitution as a model.

There were some, like William King, the state's first governor, who wanted to strike out independently. Most, however, seemed to share the opinion of William Pitt Preble (delegate from Saco) who felt that the Massachusetts constitution should be relied upon, if only because the convention lacked "sufficient time ... [for] such an ambitious undertaking" as drafting an entirely new constitution.[2] The Massachusetts instrument, written in 1780, would become the oldest constitution in the United States. Written by John Adams, it was prophetic in its political arrangements. While it stressed the authority of the legislative body, in keeping with the ideology of the American Revolution, it also set in place a separation of powers system which was less common at the time, but which would become more widespread.

The first of the ten articles which made up Maine's original constitution was known as the "Declaration of Rights." At this time, the United States Bill of Rights applied only to the national government. It was thus important for states to secure civil rights in their own charters. Maine's statement of rights bore much resemblance to the national document. Citizens were guaranteed, among other things, free speech, freedom from "unreasonable searches and seizures," and the right to a "speedy, public and impartial trial in all criminal prosecutions."

The Maine constitution also incorporated the language of the Declaration of Independence and reflected the growing democratization of American politics following the Revolution. Power would be inherent in the people, in whose authority "all free governments are founded." The constitution guaranteed citizens the right to institute, alter, or reform their government "when their safety or happiness require it."

The Maine charter was distinctly more democratic than the Massachusetts constitution. It protected freedom of worship, making no distinction between Protestants and Roman Catholics, Gentiles and Jews. The 1780 Massachusetts constitution made it a duty to worship the "Supreme Being," required church attendance, and set in place tax discriminations against Catholics and Jews.

Article II addressed the qualifications for electors. The document provided for universal suffrage for all males over 21 years, excepting "paupers, persons under guardianship, ... Indians not taxed," and persons who had not lived for three months in the state. The Massachusetts constitution required an estate of sixty pounds as a condition for voting, although this had not been enforced strictly. As in civil rights, suffrage qualifications reflected growing democratization in early nineteenth-century politics.

Articles III, IV, V, VI dealt with the structure of the state government. Article III established the principle of separation of powers, while Article IV concerned itself with the structure of the Maine Legislature. The 1819 Convention decided not to replicate the Massachusetts system of allotting one representative to every incorporated town, which by the early 1800s had created a "Great and General Court" of over 700 members. Instead, representation was based on population.

Article IV apportioned the Senate similarly. The Massachusetts constitution allocated senators to counties according to the counties' wealth. This meant that the coastal counties around Boston had an advantage over western Massachusetts and the District of Maine. The third part of Article IV refined some legislative practices. An effort toward democratization was again reflected in stipulations such as the requirement of the House to "keep a journal" and "from time to time [to] publish its proceedings."

Article V dealt with the governorship. The convention here followed the Massachusetts charter which, unlike the early constitutions of many states, provided for a strong governor. The Maine governor was the only elected statewide official, and

Portland's First Parish Meetinghouse, site of the state's 1820 Constitutional Convention. Convention leaders borrowed from the 1780 Massachusetts constitution, but produced a distinctly more democratic document, particularly in the area of religious freedom.

he had considerable appointive powers, including the power to name the attorney general (a power later transferred to the Legislature). The governor also enjoyed a veto power, relatively rare in the first state constitutions.

The main limitation on the governor's power was the convention's decision to install an Executive Council. That council, consisting of seven members elected by the Legislature, was empowered to "advise the governor in the executive part of government." The Executive Council was a vestige of Revolutionary suspicion of centralized power. Although the idea for the council came from the Massachusetts constitution, there was debate over its inclusion in Maine's 1819 charter. Dr.

Rose of Boothbay claimed it would be a useless expense, creating only "a council in whom he (the governor) has no confidence."[3] Advocates of the council stressed the advantages of economy, pointing out that a council could also be made to serve as an auditing department to review the treasurer's accounts. The advocates won and Maine had an Executive Council until 1975.

Ironically, the Executive Council was originally an asset to the governor when he was still the king's governor. In colonial America, the interests of the king, his governor, and the small coterie of wealthy colonialists who composed the council were largely the same. Occasionally, however, the council took the prudent step of siding *against* the governor and with the more radical lower House, associated with the people. During the Revolution, the council came to be regarded as an advocate of the people.[4]

The council could become even more of an obstacle when the governor's party was not the one in control of the Legislature. Frequent efforts were to appear over the years to abolish the council — by the Constitutional Commissions of 1875 and 1962, by Governor Edmund Muskie, and by the Democratic Party for decades. Much of the controversy over the council and its functions arose from the problematic language within the original text, which said the council was to "advise" the governor "for ordering and directing the affairs of state." Just what was intended by these terms was left largely unspecified. This ambiguity led to fluctuations in the council's actual power during different administrations. It also made the council difficult to attack.

Article VI delegated judicial power to a Supreme Judicial Court and to "such other courts as the Legislature shall ... establish." Justices were to be named by the governor, and they held their offices "during good behavior" until the age of seventy. Except for the age limit, these provisions closely followed those in the Massachusetts constitution.

The remaining articles dealt with the role of the state in the education of its citizens (in part, prompted by a power struggle

over control of Bowdoin College which the state then helped to fund)[5], the organization of the state militia, and various housekeeping matters. In a referendum in December 1819, the constitution was approved by a margin of more than ten to one.

Two underlying themes of the 1819 constitution were relatively broad popular participation and a state government equipped with fairly extensive powers. Not all state consitutions at that time provided either as much respect to individual citizens or as much strength to the three branches of state government. Maine's suffrage was broader than that of Massachusetts, and its "Declaration of Rights" more elaborate. At the same time, the constitution did not follow the paths of some other states and weigh the state government almost entirely in the direction of its Legislature. It is true that in Maine the Legislature was the first branch of government, but the governor and the courts were also given significant powers. As the state developed and began to alter its constitution through amendments, the tension between the power given to the people and the power given to the government had to be continually reconciled.

THE DIRECTION OF THE AMENDMENTS

Because of the large number of amendments to Maine's constitution, and the even greater range of subjects which they attempt to shape, a classification of the amendments is necessary for our understanding of them. Three broad areas will be examined: social policy, suffrage, and political institutions.

Social policy

Maine's use of constitutional amendments to establish social policy invites attention to the 26th amendment which, in 1885, "forever prohibited" the use of intoxicating liquor. This amendment was the outgrowth of a powerful temperance movement in Maine, led by Neal Dow, a Portland businessman who became involved in the issue through his philanthropy.[6] By the 1850s, his movement won legislative enactment of a prohibition law which would become known as the "Maine

Law" because it was so widely copied by other states. Because of Democratic opposition to Prohibition, the policy rested on an uncertain foundation so long as it depended on a statute. Dow and his followers sought to provide a more secure basis for it with a constitutional amendment. Indeed, the 26th amendment was effective until it was repealed in 1934 under the 54th amendment.

Another important amendment aimed at social policy is the 14th amendment. Passed in 1876, this act promised that charters of incorporation would not be created under special legislation, but under general laws. The general incorporation law came at the culmination of a long era of national controversy lasting roughly from the 1830s to the 1880s. A staple of Jacksonian politics was the reaction against legislative power, popularly viewed as corrupt and beholden to powerful capitalists. Under the rubric of egalitariansim, citizens launched a series of attacks against charters, immunity, monopoly, and special legislation.

In Maine, the controversy over special legislation lasted from the 1830s until the 14th amendment was passed in 1876. Proponents of the amendment assumed that privilege, favoritism, and monopoly would be wiped out once special legislation was replaced by general laws of incorporation. Under general incorporation laws, they felt, similar petitions for incorporation would be given similar privileges. In addition, advocates hoped that the integrity of the Legislature could be reaffirmed, if not altogether redeemed.[7]

In 1870, the Legislature passed a general incorporation law for private corporations, or those which were in no way affected with public interest. In January 1871, the *Maine Farmer* praised the statute but predicted that private legislation would continue unless there would be a " ... clause in the constitution forbidding the enactment of any but general laws."[8] The paper's premonition was correct, and few corporations were formed under the new statute until it became embodied in the 14th amendment.

In proposing the 14th amendment, Maine's Legislature significantly delimited the scope of its own actions, but perhaps not as dramatically as one might at first suppose. The case of *Taylor v. Portsmouth, Kittery, & York Railroad* (91 Maine 193, 1898) established the rule of law that if the Legislature should grant a special charter which might have been formed under general laws, only the state (not private citizens) can inquire into such an act's validity.[9]

The issues behind the 14th and 26th amendments successfully tapped into the moral and egalitarian political culture of Maine, which had been founded on the Puritan concept of society. One issue (temperance) was indigenous to Maine, and the other (special legislation) was not. But the political climate within Maine at the time strengthened these movements by establishing constitutional guarantee. The passage of the two amendments, in turn, points to one reason for constant modification of a state constitution: the need to substantiate psychologically an already existing law. Both the 14th and 26th amendments existed in statutory form, but proponents felt they would be given greater validity by being incorporated into the constitution. The amendments also support the idea that on big issues, Maine has always attempted to speak with one voice.

Throughout the twentieth century, civil rights in Maine have been expanded through constitutional amendments. In 1954, the 77th amendment allowed Indians in the state to vote, regardless of whether or not they paid taxes. Although the 89th amendment provided Maine's citizens with the basic tenets of civil rights in 1963, within two years the 100th amendment was required so that paupers might have suffrage rights. Another anti-discriminatory measure was the 79th amendment (1955), which removed the requirement that the governor had to be a natural-born citizen of the United States. In November 1988, voters approved an amendment to remove all sexist language from the constitution.

Suffrage

The second broad area of constitutional change has involved the suffrage. When Maine's constitution was written,

the states had sole power to determine which persons would vote. Gradually, the federal government began to circumscribe state power in this area through amendments to the federal constitution, such as those granting suffrage to blacks and to women. Maine nevertheless enacted some important and unique suffrage amendments. Although most of these amendments appeared during the nineteenth century and early decades of the twentieth century, some were passed fairly recently.

During the last half of the nineteenth century, suffrage amendments were mainly focused on new ways of electing state officials. In the original constitution, the winning candidate for either the Legislature or governorship was required to obtain a clear *majority* of *all* votes cast in the particular election. If no candidate had a majority, additional procedures were required according to the office being filled.

When splinter parties evolved in the 1830s and 1840s, the majority system of elections broke down. In the 1846 House elections in Maine, some 40 percent of the districts had no majority winners and required additional contests. The technical solution to the problem was the plurality elections, in which the candidate with the highest number of votes (whether or not a majority) is declared the winner. In 1848, voters approved the 7th amendment which established this procedure for the House of Representatives. (They rejected this idea for other offices.)

In 1868 and 1872, elections for certain Senate seats had to be held a second time because of the absence of a majority winner. In 1876, the 13th amendment was enacted to establish the plurality rule for senatorial elections. The governor, though, was still chosen by a required majority vote. In one of these elections, the Legislature chose a candidate who had not even obtained a plurality. The candidate, Dr. Alonzo Garcelon (1879-1880) of Lewiston, was elected by a fusion of the Democratic and Greenback parties. Before Garcelon left office, however, the 24th amendment was passed, establishing plurality elections for governor.

Alonzo Garcelon, Democratic-Greenback candidate for governor, lacked a popular plurality in 1879, but was elected by the Legislature. This contest sparked a storm of protest and prompted a constitutional amendment requiring plurality election. Courtesy University of Maine Special Collections Department.

The 29th amendment, passed in 1893, was criticized as being nativist. It was the outgrowth of a late-nineteenth-century change in Maine's demography. The population of Maine had become far more ethnically diverse than it had been originally. Into the predominately Anglo-Saxon/Scots Irish stock of the early settlers, incursions were made by the Franco-Americans after the Civil War, and by eastern and southern Europeans around the turn of the century. In Maine, as in other states, the immigration resulted in a period of adjustment for both the newcomers and the natives. The 29th amendment appears to be one negative example of native adjustment. This measure required that voters be able to read the Maine constitution in English as well as write their names. Previously enrolled voters were exempted. Resentment to the amendment was especially strong in the large, ethnically conscious French communities, such as Lewiston.[10]

The first two decades of the twentieth century witnessed some dramatic strides in suffrage, the most notable being the Susan B. Anthony amendment to the federal constitution in 1919, allowing women to vote. Although Maine had a vocal suffrage organization as early as 1873, every women's suffrage bill that was submitted failed. One reason for the failure seems

to have been that the prohibition issue became intertwined with the women's suffrage movement. Many Democrats and "wet" Republicans seem to have feared that if women obtained the vote, the 26th (prohibition) amendment might never be repealed.[11] Another factor was the presence of the Maine Association Opposed to Suffrage for Women, led by Margaret Rollins Hale, a prominent civic leader married to Judge Clarence Hale.

Although Maine was behind the times in its stand against women voting (even on local school boards), it was the first eastern state to confer upon its electors the Direct Initiative and Referendum, under the 31st amendment in 1909.[12] The Initiative allowed the electors to draw up statutes without legislative consent. The Referendum allowed them to veto measures already enacted by the Legislature, as well as approve new initiatives.

The 31st amendment grew out of the political ferment of the Progressive period, a time when citizens in Maine and many states considered themselves more capable of sound political decisions than their elected officials. Shortly after the turn of the century, the Initiative and Referendum became a part of the Democratic platform in Maine. The proposed Democratic Initiative embraced constitutional amendments as well as statutes. Similar measures were endorsed by the Republican and Prohibition parties by 1906, although these two parties successfully barred use of the Initiative to amend the constitution. (The Prohibition Party feared that without that restriction the Initiative might lead to the removal of the 26th amendment banning liquor.)[13]

Despite the formidable opposition of the speaker of the house, the president of the senate, and the members of the judiciary committee, to whom the proposal was submitted, support was still strong. The Legislature passed a resolve which was overwhelmingly ratified by the voters in the following year.

Since then, the Initiative and Referendum have been used fairly frequently, especially in recent years. Partly because of

this, a trend restricting the use of these devices is discernible. Additional signatures for the Initiative and Referendum were required under the 63rd and 71st amendments by the early 1950s. During the same period, the 72nd amendment was passed, stipulating that any measure adopted through referendum which failed to provide adequate revenues for its services would be inoperative. Still another provision, enacted under the 144th amendment in 1981, specified that no signature on a petition older than one year would be regarded as valid. These restrictions are apparently designed to prevent small numbers of voters and interest groups from manipulating the Referendum and Initiative process to their advantage.

The latter half of the twentieth century has (somewhat belatedly) removed some of the earlier restrictive suffrage amendments. It was only in 1954 that all of the state's Indians were allowed to vote under the 77th amendment. Paupers were denied this right until the 100th amendment in 1965. Inequitable legislative apportionment was not corrected until 1969 through the 88th and 110th amendments. The voting age was lowered to twenty by the 113th amendment (1969), and then to eighteen by the 116th amendment (1971). In addition, residency requirements for voting that were increased during the Great Depression (amendments 57 and 61) were removed in 1974, under the 123rd amendment.

Political Institutions

The impact of the amendment process on the three branches of Maine's government is the last area to be examined. Maine created a strong Legislature through the provisions of its original constitution, and over the years this branch of government has acquired additional strength. The bulk of the amendments extending legislative power have been budgetary in nature, concerned especially with the issuance of bonds and the level of the debt ceiling. Most of them constitute an exception to the 6th amendment of 1848, the most restrictive of all measures placed on the Legislature. This amendment forbade the loaning of state credit and limited the state debt to $300,000. The original document had not set a debt limit.

It is important to realize that the 6th amendment was not established with the sole intention of circumscribing the powers of the state legislature. This amendment was the result of serious financial difficulties which the state found itself in during the 1840s. These difficulties grew out of several circumstances.

The depression of 1837 was pivotal. Arising from excessive speculation and too much currency in circulation, this business crisis had far-reaching effects for Maine, still in the early days of statehood. At the time, the state opposed the principle of direct taxation, considering it, as in the words of its treasurer in 1836, "the most odious and ... expensive way of sustaining the government."[14] Revenues were instead based on sales of public lands — sales which dramatically sloughed off when the speculative boom in Maine timberlands ended in 1837. Two years later, in 1839, the Northeastern Boundary Dispute between Great Britain and the United States climaxed in a muster of state militia, which cost Maine in one year an amount over six times its revenue. To sustain the northern forts and troops, the state eventually created a debt of $1.5 million, borrowing on what one scholar has described as "ruinous terms."[15]

By 1840, the state had reluctantly instituted direct taxation (a property tax), and within two years began reducing the deficit. In enacting the 6th amendment in 1848, Maine made a serious promise, intended to be more of a guideline than a practice. It is difficult to say whether the promise not to loan the state's credit has been invalidated by the many exceptions (in the form of bond issues) that have been enacted over the years, such as 45th amendment which allowed the state's credit to be loaned for soldiers' bonuses after World War I. But the fact that an exception to the 6th amendment is necessary whenever the state's credit is loaned provides a significant dose of caution.

Maine's Constitutional Commission of 1875 had an important effect on the Legislature in several ways. The Commission was responsible for the 14th amendment, which restricted the Legislature by providing for general, rather than

special, acts of incorporation for businesses. But the Commission was also responsible for some of the most important powers given to the Legislature in the nineteenth century. Among these is the 19th amendment, which allowed the Legislature to call a constitutional convention in order to amend the constitution, and the 20th, which gave the Legislature the right to suspend (for ten years) the suffrage rights of individuals involved in electoral bribery. Regarding the Legislature's power of taxation, the 17th amendment promised that this right would never be surrendered.

During the twentieth century, the state's Legislature has seen a number of procedural restrictions placed upon its financial powers. Among these, the 75th amendment (1951) required that statements of the state's outstanding debts must accompany all proposals to the electors for the issuance of new state bonds. Other amendments are the 147th (1982) and the 151st (1984) which limit the life of authorized bonds. In a sense, these amendments recall the tenor of earlier constitutional reforms, which ensured financial stability through constitutional restrictions on the Legislature. The 115th amendment (1970), however, gave the Legislature one of its most important powers. This amendment allows the Legislature to convene itself into special sessions, a right formerly enjoyed by the governor only.

Maine's executive branch has also been modified through the amendment process. In the original Constitution, the governor had extensive appointive powers, which included the naming of judicial, civilian, and military personnel. By the middle of the nineteenth century the executive power in most states was under attack, and Maine was no exception. In 1856, under Whig sponsorship, several of the governor's appointive offices were made subject to popular election (9th amendment). These included judges, registers of probate, municipal judges, and county sheriffs.

Beginning in the 1870s, state politicians began to reconsider some of their earlier decisions against executive power. This was partly because certain officials were responsible to a

governor who had no direct influence over their selection. In Maine, this new thinking resulted in the cancellation of portions of the 9th amendment. Under the 16th amendment (1876), the appointment of judges of municipal and police courts reverted to the governor, who later was allowed to appoint the adjutant and quarter-master generals under the 28th amendment (1893).

It was during the twentieth century that the governorship in Maine received some of its most important powers. The 38th amendment, adopted in 1917, allowed the governor to remove county sheriffs in certain instances. As the official most responsible for carrying out the laws of the state, the governor needed this direct authority over sheriffs, who were the main law enforcement agents in their respective counties. Under the 40th amendment (1919), the governor gained the power to appoint commissioned militia officers, who had earlier been named by their companies. In 1929, the 50th amendment authorized the governor to fill vacancies in the Executive Council "with the advice and consent" of the Council, instead of by the joint ballot of the Legislature.

There have been some critical additions to the Governor's authority within the past three decades. In 1955, the 78th amendment extended the governor's pardon powers, and two years later, under the 84th amendment, the governor's term was extended from two years to four. In 1975, the Executive Council was abolished by the 129th amendment. Its executive functions, such as powers of fiscal management, were assigned to the governor, while such legislative activities as confirming gubernatorial nominations were lodged in the Senate. In the following year, the 131st amendment gave the governor ten days to act on legislation, instead of the earlier five.

While many states have incorporated into their constitutions specifications concerning the structure of their executive branch, Maine's document says relatively little on the matter. The attorney general's appointment has been altered (9th amendment, 1856) and the state treasurer has gained a longer term of office (27th, 1889 and 70th, 1951). The Land Agency was

abolished in the nineteenth century and the office of justice of the peace was removed from the constitution in the twentieth century. Most of the broad changes, from a handful of employees in the 1820s to the approximately 12,000 employees currently in the workforce, came through statutory revision.

Of the three branches of state government, the least amount of constitutional revision has occurred with respect to the state courts. With the growth of judicial business, the Legislature has been able to establish new courts and new levels of courts without resorting to the amendment process. The only court officially sanctioned by the state constitution is the Supreme Judicial Court. The main changes that have occurred in that court through constitutional amendment have been concerned with judicial tenure.

Originally, as noted, justices served "during good behavior" until the age of seventy. In 1840, under the 3rd amendment, they were given seven-year terms, and the ban concerning age was removed. Under the 132nd amendment (1976), justices were allowed to serve up to six months after the expiration of their term, if a successor had not been named.

A final aspect of governmental institutions has to do with the development of relations between the state government and its localities. Like local governments in all states, Maine's towns and cities are in constitutional theory "creatures of the state." The state may direct their actions as it desires and its powers include the authority to create, modify, and abolish local governmental jurisdictions. The original Maine Constitution was silent on the topic of state and local relations, but several amendments have significantly shaped this relationship. In 1878, the 22nd amendment barred municipalities from creating debts exceeding five percent of their property valuations. The Maine Legislature had earlier allowed localities to sell a limited amount of bonds for the purpose of constructing railroads. Pressures on the Legislature to further relax the credit limitations on individual communities were so intense that the amendment was adopted to regulate the situation across the state.

If the 22nd amendment was restrictive, the 111th amendment (1969) provided localities with their most important new power by granting home rule to Maine's municipalities. Under its provisions, local inhabitants were given the power to alter or amend their charters on all local matters that were not prohibited by constitutional or general law. This amendment illustrates the reserve characteristic of Maine policymaking. Although the home-rule movement started in the 1870s in Missouri, it only became nationally popular at the turn of the century. At this time, municipalities in many states were given freedom in all "local matters." Exactly what was purely local in nature, however, was often left so vague that little power was actually granted. By the 1950s, the home-rule movement was at its peak. The formula that allowed communities to pass ordinances on "local matters" was widely replaced with one that permitted them to alter their charters in all matters "not prohibited" by constitutional or statutory law. This altered wording gave considerably more substance to the power of home-rule. In Maine, home-rule arrived late, and both the old and the new versions were entered in the constitution.

The 157 amendments added to the Maine Constitution since its adoption in 1819 have significantly strengthened the original political structure. The important freedoms and powers that Maine citizens acquired in their original charter have been expanded by constitutional amendments through the years. While it is true that the most significant of these amendments were enacted during the nineteenth century and early decades of the twentieth, there have been some critical additions more recently — such as the 89th amendment (1963) granting basic civil rights. The Legislature, which started as the strongest political body, has maintained its independence through the amendment process. The nineteenth century witnessed the greatest amount of amendment activity concerning the Legislature. Although the twentieth century has seen many procedural limitations put on this institution, there have been some signal acquisitions, such as the 115th amendment (1970) which allowed the Legislature to convene itself into special

sessions. Unlike the case of many states during the early nineteenth century, Maine's governorship was initially strong. Except for a temporary period in the middle of that century, the office has continued to develop that way. Its greatest period of growth has been, without doubt, the twentieth century, especially the most recent decades.

A salient feature of Maine politics is that it has been able to reconcile two potentially clashing elements — the need for effective government and the benefits of a politically active citizenry. In part this was accomplished through the amendments themselves. Amendments that enlarged or restricted the power of a single branch of government usually contained a clause that redressed the balance, or subsequent amendments did so. For instance, while the Legislature has acquired powers to issue bonds (thereby eroding the 6th amendment), these powers have been more recently restricted. Even though the general incorporation laws of the 14th amendment have severely curtailed legislative power, only the state is empowered to look into any deviations from this policy. The Direct Initiative and Referendum of the 31st amendment gave the people of Maine an important power, but this power has been circumscribed throughout the second half of the twentieth century. Although the 9th amendment (1856) removed many appointive offices from the governor, subsequent amendments, such as the 16th and the 28th, have returned many of the same offices to the governor.

As a result of such reconciliation and balance, the "spirit" of the 1819 constitution has largely been retained and made relevant to changing circumstances. Through codification, the original format of the document has also been maintained. The preservation of Maine's constitution, then, has not been in the form of a museum piece. Instead, the charter is constantly re-evaluated through the amendment process. It is in this respect that the Maine constitution is an accomplishment. The charter thus continues as both a testimony to the past and a direction for tomorrow.

NOTES

[1]Ronald F. Banks, *Maine Becomes a State: The Movement to Separate Maine from Massachusetts, 1785-1820* (Middleton, Connecticut: Wesleyan University Press, 1970), p. 151.

[2]*Ibid.*, p. 153.

[3]Edward F. Dow, *Our Unknown Constitution: A Study of Maine's Basic Law* (Portland, Maine: *Maine Sunday Telegram*, 1962), p. 2.

[4]*Ibid.*, pp. 1-2.

[5]Banks, *Maine Becomes a State*, pp. 167-179.

[6]See Frank L. Byrne, *Prophet of Prohibition: Neal Dow and His Crusade* (Madison, Wisconsin: The State Historical Society of Wisconsin for the Department of History, University of Wisconsin, 1961).

[7]Peter Neil Barry, "Nineteenth Century Constitutional Amendment in Maine," M.A. thesis, University of Maine at Orono, 1965, pp. 123-125.

[8]*Ibid.*, pp. 125-126.

[9]Herbert M. Heath, *A Manual of Maine Corporation Law* (Portland, Maine: Loring, Short, and Harmon, 1917), pp. 13-14.

[10]Barry, "Nineteenth Century Amendment," pp. 60-61.

[11]Edward O. Schriver, " 'Deferred Victory': Woman Suffrage in Maine, 1873-1920," *Maine: A History Through Selected Readings*, ed. by David C. Smith and Edward O. Schriver (Dubuque, Iowa: Kendall/Hunt Publishing Company, 1985), p. 417.

[12]Lawrence Lee Pelletier, *The Initiative and Referendum in Maine* (Brunswick, Maine: Bureau for Research in Municipal Government, 1951), p. 8.

[13]*Ibid.*, p. 9.

[14]Fred Eugene Jewett, *A Financial History of Maine* (New York: Columbia University Press, 1937), p. 34.

[15]*Ibid.*, p. 30.

Kenneth T. Palmer, professor of political science at the University of Maine, holds a Ph.D. from Penn State (1964) and a B.A. from Amherst College (1959). His works include STATE POLITICS IN THE UNITED STATES *(1977), and* THE CHANGING POLITICS OF FEDERAL GRANTS *(1984), which he co-authorized. He is currently co-authoring a textbook,* MAINE POLITICS AND GOVERNMENT, *with Marcus LiBrizzi. LiBrizzi, a graduate student (Masters) in English at the University of Maine, resides in Unity, Maine.*