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Race and Public Policy in Maine: Past, Present, and Future

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Race and Public Policy in Maine:

Past, Present, and Future

by James Myall

Abstract

Maine's bicentennial year is an appropriate moment to reflect on the historical legacy of public policy in Maine. In particular, the impact of historic policy decisions on people of color in the state is widely overlooked, perhaps because of Maine's historical whiteness. This piece will show that, like the rest of the United States, Maine has a history of state-sanctioned discrimination, the consequences of which resonate today. Policymakers need to understand the harmful legacy of racist public policy in Maine if they are to avoid perpetuating those inequalities. Further, this piece will argue that it is not enough for lawmakers to avoid explicit or intentional racism in public policy, but that the state needs to be actively antiracist, with policies that intentionally work to improve the lives of people of color and correct historic wrongs.

In 1867, a heated debate raged in Maine's legislature and filled newspaper columns across the state. Advocates for Black rights wanted to repeal the state's long-standing ban on interracial marriages, but opponents rejected the "mixing of the races," often citing racist theories of white genetic superiority. The *Portland Daily Press* (1897) reported on February 4 that those opposed to repeal were afraid that "nothing but the law prevents our best families from intermarrying with the blacks; that if the bars are taken down there will be no Caucasian society left."

Mainers like to think of themselves as being on the right side of history when it comes to racial justice. Maine entered the union in 1820 as a free state and was home to several abolitionists. Abraham Lincoln appointed one Mainer (Hannibal Hamlin) as his first vice president and another (Oliver Otis Howard) to lead the Freedman's Bureau. Maine's governor in the late 1860s was none other than Joshua Chamberlain, the hero of Little Round Top during the Civil War. Yet a legislature that had just recently overwhelmingly ratified the Thirteenth, Fourteenth, and Fifteenth Amendments to the US Constitution stumbled at the idea of interracial marriage. The 1867 attempt to end the ban on interracial marriage failed, and Maine's

antimiscegenation law (1821 PL 70) would not be repealed until almost a generation later in 1883.

This episode is a stark reminder that Maine's record on racial discrimination is not as clean as conventional wisdom would have us believe. It is easy for residents of northern and western states to assume that racism was largely, or even entirely, confined to the South. In Maine's case, it is also imagined that the state's racial homogeneity insulated it from racist attitudes and policies. Between 1790 and 1970, the US decennial censuses recorded Maine's population as at least 99 percent

white. Since 1970, that has begun to change, but as of 2018, Maine was still the whitest state in the nation, with 93 percent of residents identifying as white non-Hispanic (Table 1).

Yet Mainers were not immune from the prejudices of other white Americans, and lawmakers enacted many policies that were disproportionately harmful to nonwhites. Some of these policies, like the prohibition on interracial marriage, were explicitly racist. Others were implicitly discriminatory, and some may even have been unintentionally harmful. The discrimination was not limited to Maine's small Black or American Indian populations but extended to other groups whose whiteness was questioned, such as Irish and French-Canadian immigrants and Jews.

Acknowledging and understanding this history is important not only to understand Maine's past, but also to inform its present and future. Maine's law against interracial marriage is a good example. The law apparently did little to prevent interracial relationships—in the census of 1890, just 43 percent of Maine's Black population was reported as full "Negroes," with the remainder assigned a mixed-race status. But because these relationships were not legally recognized as marriages, children of these couples

TABLE 1: Racial Demographics in Maine, 1970–2018

	1970	1980	1990	2000	2010	2018
Total population	993,663	1,124,660	1,227,928	1,274,923	1,328,361	1,338,404
	%					
White, non-Hispanic	99	98	98	96	94	93
Hispanic	0.2	0.4	0.6	0.7	1.3	1.6
Black	0.3	0.3	0.4	0.5	1.2	1.3
American Indian	0.2	0.4	0.5	0.6	0.6	0.6
Asian	0.1	0.3	0.5	0.7	1.0	1.1
Others	0.1	0.4	0.1	0.2	0.3	0.2
2 or more	n/a	n/a	n/a	1.0	1.6	2.2

Source: Author's analysis of US Census Bureau estimates (available at https://www.census.gov/history/www/through_the_decades/).

Note: Before 2000, the decennial census required that respondents identify by a single race. In 1980 and 1990, Pacific Islanders were enumerated with Asian-Americans. In 1970, separate categories for Chinese, Japanese, and Filipino were enumerated.

were declared illegitimate and denied rights such as inheritance.

The effect of such racist policies ripples through generations. When groups have been marginalized and disadvantaged, their children inherit the negative impacts of exclusionary policies, as do their grandchildren. A striking example of this is the racial wealth gap. Nationally, white families have, on average, 10 times the wealth of Black families (Detting et al. 2017). Local studies have shown that the gap is even wider in some areas. A recent racial wealth audit in Boston found that the median net worth of Black families there was just \$8, compared to \$247,500 for white families (Muñoz et al. 2015). The effects of the wealth gap compound over time, as new generations either inherit significant wealth from their parents or fall further behind their peers.

A comprehensive accounting of racial discrimination and public policy in Maine's first two centuries would be a much larger endeavor than this article allows. But a series of examples can give a sense of the scale and scope of this history. Understanding the racial impact of public policy in the past two centuries of statehood will help us make better decisions in the future and ensure that new laws correct disparities rather than creating new or maintaining existing disparities.

CONSTRUCTING WHITENESS

Understanding historic racism requires an understanding of the historic definitions of race. Because race is a social construct, the boundaries of race in the United States have changed over time.

The racial classifications used by government offices like the US Census Bureau illustrate the shifting understanding of race. The decennial census has categorized Americans into at least 14 different racial and ethnic categories in the past 220 years. In early censuses, Americans were divided

between “white” and “colored,” with the definition of colored being somewhat ambiguous.

By 1890, the census distinguished between multiple gradations of Blackness, with “Negroes,” “Mulattos,” “Quadroons,” and “Octoroons” enumerated separately. Chinese, Japanese, “Hindus” (South Asian), and Filipinos once appeared separately but are now all included under the umbrella of Asian. In the census of 1930, “Mexican” was a race; now Hispanic or Latino is categorized as an ethnicity, across multiple racial identifications. The Massachusetts colonial census of 1764–1765 even distinguished “French Neutrals” (Acadians evicted from present-day Nova Scotia) as distinct from white residents.¹

Acadians were not the only group considered to be only partly white, or white in an inferior sense. Other immigrant groups were also accorded lower status, particularly those from outside Northern Europe or non-Protestant countries. In Maine, this often meant that Irish and French-Canadian immigrants suffered discrimination alongside people of color (though generally not to the same degree). Maine's Jewish community was seen as both religiously and racially distinct.

But whiteness was also fluid, and groups could, and often did, become white. While the Irish were poorly regarded when they first arrived in the United States in large numbers in the 1850s, by the early twentieth century

they had become more accepted. In a survey by the Maine Bureau of Labor in 1908, Irish farm laborers were the third-most likely to be seen as desirable immigrants, after Swedes and Germans (Myall 2019a).

As whiteness has expanded to include these groups more fully, they have gained access to power, wealth, and resources that people of color continue to be excluded from. And while European immigrants could become white through assimilation, that has not been an option for most African Americans and many others whose skin tone has remained an obvious marker of Blackness or another nonwhite race.

Thus, while this piece will show that state policies affected some groups we today consider to be white, as well as those we think of as people of color, it's important to remember that the harmful effects lingered longest for Mainers who could not assimilate into whiteness and who remain marginalized today. Likewise, some of these policies had disparate impacts based on gender, religion, or sexuality, and Mainers with those identities faced many other forms of discrimination that are outside the scope of this paper.

SECOND-CLASS CITIZENSHIP

Constructing and maintaining a system of white supremacy requires concentrating power in white hands and restricting the ability of people of color to participate in governance. Though not as extreme as some states, Maine engaged in its own process of disenfranchisement against nonwhite groups.

Maine's original 1820 constitution was relatively progressive for its time. It maintained the right to vote for Black citizens that Massachusetts had codified in its 1780 constitution. An attempt at Maine's 1819 constitutional convention to deny Black suffrage was defeated on the grounds of equality (Debates 1894: 125). Documentary evidence shows that Black Mainers did indeed vote from 1820 onward. In the wake of *Dred Scott v. Sandford*, the state legislature sought clarification on the status of Maine's Black voters from the state's Supreme Judicial Court. Chief Justice Appleton confirmed Black suffrage in Maine (Price and Talbot 2006: 269).

Maine's attitude to Indian suffrage has been more contradictory. For example, Maine's 1820 constitution only excluded "Indians not taxed" from the right to vote.

The journals of the convention make it clear that this was in recognition of the sovereignty of Maine's tribes and their unique legal situation (Debates 1894: 125). Yet this initial promise of sovereignty was not upheld, and Maine has violated its treaty obligations with the tribes on many occasions. Instead, the relationship between the state and the tribes evolved into one of state guardianship and authority over the Indian nations, in which they had neither independent sovereignty nor any right to participate in state government.

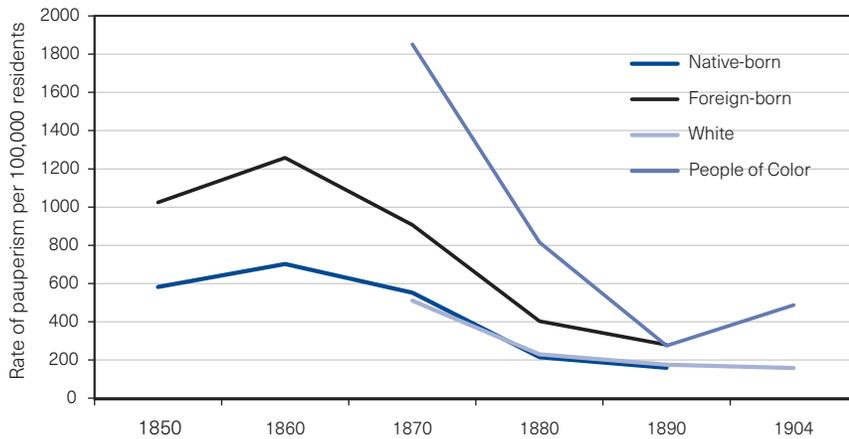
The 1924 Indian Citizenship Act gave Native Americans nationwide US citizenship, but many states maintained domination over the tribes within their borders. Maine was one of the last states to grant voting rights to reservation residents—1954 for federal elections and 1967 for state representatives.

Even the 1953 legislative resolve that proposed amending the constitution to enfranchise Indians living on reservations was partly supported for racist reasons. One state senator who supported the bill noted that the state had paid for a bridge to Indian Island in 1949 so that the Penobscots "would be better able to themselves be assimilated into what they call the 'white man's civilization,'" and that "if ever the Indian problem in the State of Maine is going to be solved, it will be solved by principals that were supported when we gave them a bridge and are now giving them the right to vote."

Maine also excluded some residents based on economic status. While the 1820 constitution expanded suffrage by eliminating the property requirements that had been present in Massachusetts's constitution, it included a provision that paupers were not eligible for suffrage. This included the residents of almshouses and poor farms and individuals who received public support from their town in other forms. US Census Bureau tabulations show that these disenfranchised paupers were much more likely to be immigrants or people of color (Figure 1). Widespread individual and structural discrimination made it much more likely for members of these groups to be born into poverty and much harder for them to escape it, which further reinforced their disenfranchisement.

Maine erected other barriers to voting and civic participation. In 1893, the state implemented two major voting reforms that restricted access to the ballot. One was the Twenty-Ninth Amendment to the state constitution, which imposed a literacy test. This required potential

FIGURE 1: Rate of Pauperism per 100,000 Residents in Maine



Sources: Author’s analysis using US Census data: US Department of the Interior (1872a [Tables XLIII, XLIV, XLV], 1883 [Table X], 1895a [Table 198]); Koren (1908).

Note: Population of “colored” paupers was not given for Maine in 1850 or 1860. Statistics based on residents of poorhouses or individuals receiving public support at a point in time.

voters to be able to read the US Constitution in English and write their own name. One major target of the law was non-Anglophone immigrants, especially Franco-Americans. Not only were these not native English speakers, but literacy rates in French Canada were significantly lower than in Maine. Illiteracy was also much more common among people of color in Maine, so the amendment had the effect of disenfranchising voters of color as well.

The 1890 Census found that among men aged 21 and older, just 3 percent of native-born white Mainers with native-born parents were illiterate, compared to 12 percent of those with foreign-born parents, 25 percent of those who were themselves born abroad, and 38 percent of Mainers of color (Table 2).

The literacy amendment did specify that voters who were already registered could keep their registration without passing the literacy test, which was for first-time voters only. However, 1893 also saw the creation of local voter registration boards, which had the ability to remove voters from the rolls and make them reapply. In Lewiston, the board was stacked with Republicans who wanted to reduce the influence of Franco-Americans who were a reliable Democratic voting bloc. According to the Franco-American press, 723 names were dropped from the Lewiston rolls in 1894, the majority of whom were

French Canadians. These voters had to re-register with proof of citizenship within a few days and answer unnecessary and “impertinent” questions (Richard 2006: 44–45).

When women gained the right to vote in 1919, the literacy test was still in effect and applied to all newly enfranchised women. In a September 12, 1920, feature story, the New York Times reported that the test was administered differently in each community. Its reporting cited cases in Lewiston where Franco-American clerks were friendly and helpful to potential new voters and cases in Brunswick where local officials were less understanding (Myall 2018). Once again, census returns show that while literacy rates had improved significantly, Maine’s test disproportionately disenfranchised women of color and those from immigrant backgrounds (Table 3).

Change to Maine’s voting laws was slow to come. Mainers voted to enfranchise paupers in 1965 via a constitutional amendment, but only removed the literacy test after the 1970 amendment to the federal Voting Rights Act made it illegal. By then, functional illiteracy among Maine adults was very rare, less than one-tenth of 1 percent of the voting age population (Associated Press 1969). However, state officials admitted that some impact persisted in disenfranchising French Canadians who could read French, but

TABLE 2: Illiteracy Among Voting-Age Men, 1890

	Percentage
White, native-born with native parents	3
White, native-born with foreign parents	12
White, foreign-born	25
People of color	38

Source: Author’s analysis of data from US Department of Interior (1895b [Tables 43–47]).

Note: In 1890, “colored” included several categories: Black, mulatto, quadroon, octoroon, Chinese, Japanese, and Indians living outside reservations. Voting-age males were those aged 21 and older.

TABLE 3: Illiteracy Among Voting-Age Women, Maine, 1920

	Percentage
White, native-born with native parents	1
White, native-born with foreign parents	3
White, foreign-born	11
People of color	5

Source: Author's analysis of data from US Census Bureau (1922).

Note: In 1920, "colored" included several categories—negro, mulatto, Hindu, Chinese, Japanese, Filipino and all Indians, including those on reservations. Voting-age females were those aged 21 and older.

not English.² In 1971, the legislature changed the statutes governing elections to remove references to the literacy test (1971 PL 65), though the inactive constitutional language remained in place. A statewide referendum in 1979 to repeal the amendment was defeated by a two-to-one margin.

Today's conversations about voter fraud mirror those that prompted and perpetuated Maine's literacy tests and restrictions on pauper voting. Proponents of the literacy test called it a "necessary qualification for voters to make intelligent judgments" (Associated Press 1969), while admitting that it disproportionately affected immigrants and people of color. Treating voting as a privilege rather than a right disenfranchises vulnerable groups and entrenches white supremacy.

DISCRIMINATORY DRUG POLICY

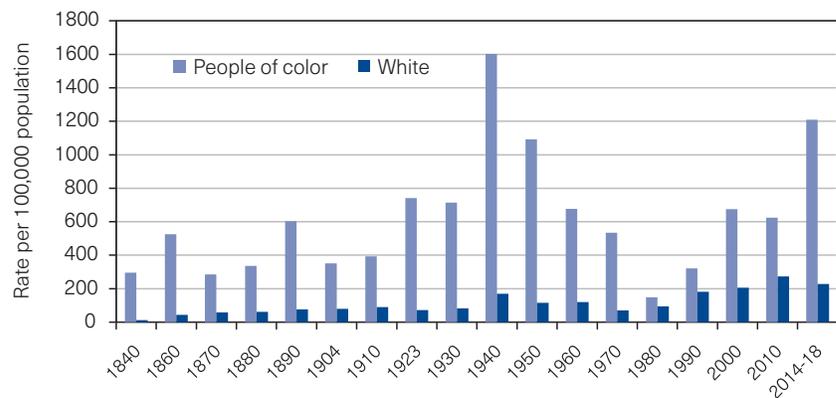
Today's criminal justice system disproportionately incarcerates people of color. Black Mainers are six times more likely to be incarcerated than white non-Hispanic Mainers (The Sentencing Project 2019). This disparity has a long history, extending back at least as far as 1840 when the US Census Bureau began tracking

rates of incarceration. Throughout Maine's history, people of color have been incarcerated at much higher rates than white Mainers (Figure 2).

A large portion of both the present and historic disparities can be traced to the enforcement of drug laws. Arrests for drug possession, sale, and manufacturing accounted for one in eight of all arrests in Maine in 2016. This share has fallen since cannabis was decriminalized in 2017, but drug arrests still made up one in eleven arrests in 2018.³ The expansion of the war on drugs since the 1970s has been identified as a source of mass arrest and incarceration in the United States. In Maine, the punitive attitude towards substance abuse and the accompanying discrimination against people of color has deep historical roots.

Maine followed the lead of the federal government in imposing harsher penalties for possession of crack cocaine than powdered cocaine (1995 PL 635), but it had imposed minimum sentences and sentences without the possibility of parole for substance abuse at least as far back as 1964 (1964 RS Title 22 Ch. 557, §2361). Maine was an early adopter of state laws against cannabis use (1913 PL 211).

FIGURE 2: Incarceration Rates in Maine, 1840–2018



Source: Author's analysis of US Census Bureau decennial census reports and historic census returns. US Department of the Interior (1854, 1872a [Table XLIII], 1883 [Table XI], 1895a [Table 1]); US Census Bureau (1908, 1913a, 1926, 1940, 1953, 1963, 1973, 1984, 1992); US Census Bureau, Decennial Census Summary Files, 2000, 2010 (<https://www.census.gov/programs-surveys/decennial-census.html>); American Community Survey, 2014-18, five-year data (<https://www.census.gov/programs-surveys/acs/>).

Note: Figures reflect number of incarcerated people at time of survey per 100,000 state residents. Due to methodological changes between censuses, caution should be taken in comparing rates across time.

Maine's drug laws have their roots in its history as a pioneer of the movement to prohibit alcohol use. So associated was the Pine Tree State with prohibition that nationally prohibition laws were known as "Maine Laws" in the nineteenth century. The sale of alcoholic drinks was outlawed or strictly controlled between 1846 (PL 205) and 1934. The policy has parallels with the attitudes towards cocaine use. Crack cocaine and powdered cocaine use were criminalized at different rates at least partly because crack cocaine use was more common among Black Americans. What's more, the laws were enforced unevenly, with crack users being more likely to be arrested than powder users (Palamar et al. 2015). Similarly, Maine's alcohol laws were targeted at the increasing population of Catholic immigrants, initially from Ireland and later French Canada.

The *Maine Temperance Journal* made this link explicit in an article reprinted in Biddeford's *Union and Eastern Journal* in December 1854, stating that "the evils of Romanism are closely identified with those of Intemperance and Slavery" (*Maine Temperance Journal* 1854). The perceived connection between Romanism (Catholicism) and intemperance meant that many early supporters of prohibition were also supporters of the Know-Nothings, an anti-immigrant, anti-Catholic group responsible for several attacks in Maine in 1854 and 1855 (Myall 2019b).

Prohibitionists falsely argued that Catholic immigrants were especially prone to problem drinking, in much the same way that some people still argue that drug use is more common among African Americans. In an 1857 speech, Neal Dow, the architect of prohibition, noted that where prohibition had failed, it was due to the presence of immigrant populations, saying that "the Irish everywhere were the greatest practitioners of intemperance, and the Germans as well" (*Portland Advertiser* 1857). But other contemporary accounts show that this convenient stereotype hid widespread opposition to the law. In 1857, Bangor's city marshal wrote that "the law is unpopular and there is little disposition to have its penalties enforced, either by its friends or others. The consequence is that vice of every description is more prevalent" (Bangor 1857).

The situation was no better by 1893, when the Canadian government dispatched a royal commission to examine the impact of prohibition laws in the United States. According to Napoléon Lajeunesse, the deputy marshal for Lewiston, "you might as well try to stop the

Androscoggin River from flowing, as to try and stop the sale of drink here." Other witnesses made it clear that immigrants were by no means the only cause. While "these French and Irish people look at selling rum differently from what a Yankee does who is raised in the country," nonetheless, former Mayor William Newell noted, "I do not mean to say that the American-born do not drink liquor... There is no question about that. They do not have any liquor saloons in Auburn, but they come here [to Lewiston] for it."⁴

Yet it was not the American-born who were primarily arrested for violations of the law. Local police reports reveal that foreign-born Mainers and people of color were disproportionately arrested for offenses related to prohibition. Portland's city marshal provided the most detailed statistics in his annual reports, and the numbers are startling. Between 1870 and 1883, American-born white residents were arrested at the rate of between 20 and 30 per 1,000 residents, while for Black residents that rate was many times higher, as high as 195 per 1,000 in some years. In a sign of how much the city's Irish community was singled out, the arrest rate among Irish Americans was sometimes more than 400 per 1,000. For example, in 1880, the US Census found Portland to have 3,514 Irish-born residents. In the same year, the city marshal reported that 1,297 arrests had been made of Irish people in the city (Figure 3).⁵

The discriminatory enforcement of Maine's laws against alcohol use are paralleled by the enforcement of drug laws today. For example, Black Mainers are many times more likely than white Mainers to be arrested for cannabis possession, despite the fact that fewer Black Mainers actually use cannabis. According to the National Survey on Drug Use and Health, between 2008 and 2017, 18 percent of white Mainers reported using cannabis in the past year, compared to just 12 percent of Black Mainers (US SAMHSA n.d.). In this context, the disparity between arrest rates is even starker (Figure 4). The first statistics following the decriminalization of cannabis use in Maine in 2017 suggest that the law has potential to narrow the racial disparity in arrest rates in Maine, but it is still too early to say this definitively.

Maine's experiences with laws against alcohol and cannabis use are a clear demonstration of how racism can affect policy decisions. Both laws were created against a backdrop of prejudice based on false assumptions. In the

case of alcohol, Irish immigrants were scapegoated; in the case of cannabis, Black Mainers were targeted. In both cases, the assumptions became self-fulfilling prophecies when police forces made arrests based on those same stereotypes.

Maine’s recent experience with decriminalizing cannabis hints at one possible way to tackle these disparities. However, there are deeper inequities to address in Maine’s criminal justice system. Once arrested, Mainers of color face harsher charges and sentences. A recent report by the Justice Center of the Council of State Governments found that Mainers of color, especially Black Mainers, were more likely to be charged with serious drug offenses (Shelor et al. 2019).

SCHOOL SEGREGATION

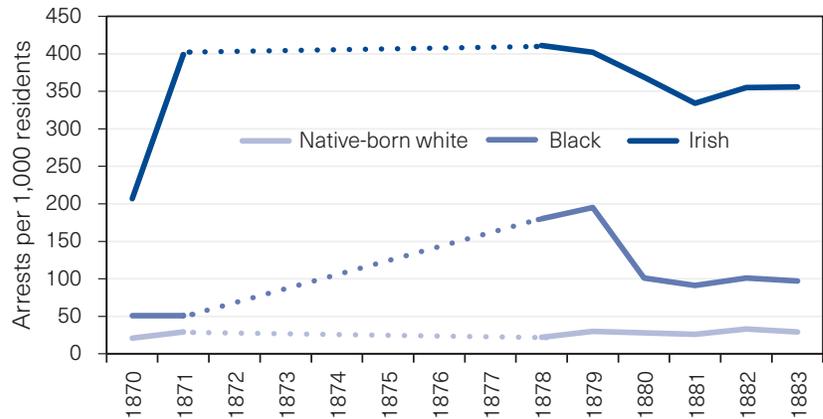
Public policy can also be a force for good in ensuring greater racial justice. But beneficial policy requires explicit and strong protections in state law. Here again, Maine’s history shows us how discrimination thrived in the absence of strong civil rights laws.

The right to public education has been enshrined in the Maine Constitution since 1820, but its provision has not always been universal or equitable. Maine towns with Black communities often created segregated school systems. Such separate schools were found in Portland, Brunswick, Warren, and Machias (McMahon 2013; Price and Talbot 2006) when white residents objected to their children attending integrated schools.

In Atusville in Machias, the Black community established its own school in 1853 after their children were attacked by white students for trying to attend the local

school. According to a later account in the Machias Union “the white boys did not think the black boys had rights they were bound to respect. The white hands would knock the hat on the black head, tear the coat and clothing on the

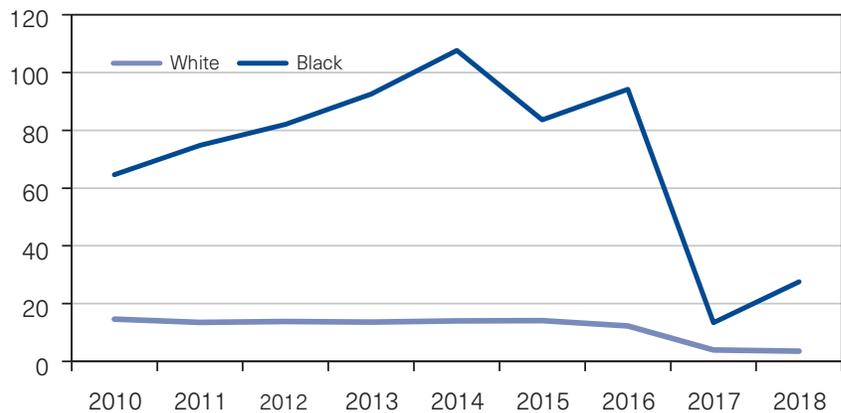
FIGURE 3: Prohibition Enforcement in Portland, 1870–1883



Source: Author’s analysis of Portland city reports for 1870, 1871, 1878–1883 (<https://digitalcommons.library.umaine.edu/towndocs-portland/>), and US Census decennial publications (<https://www.census.gov/programs-surveys/decennial-census/library/publications.html>).

Note: Rate per 1,000 city residents.

FIGURE 4: Maine Cannabis Arrest Rates



Source: Author’s analysis of FBI Uniform Crime Report statistics (<https://www.fbi.gov/services/cjis/ucr>), US Census Bureau population estimates. Rates of cannabis use are calculated using the National Survey on Drug Use and Health, restricted access data averaged over the period 2008–2017 (US SAMHSA n.d.).

Note: Rate per 1,000 adult users.

TABLE 4: School Enrollment Rates in Maine, 1850–1920

	1850 (%)	1860 (%)	1870 (%)	1880 (%)	1890(a) (%)	1890(b) (%)	1900 (%)	1910 (%)	1920 (%)
White									
All	87	88	89	91	65	69	64	66	68
Native-born	n/a	n/a	n/a	n/a	68	n/a	70	68	70
Foreign-born	n/a	n/a	n/a	n/a	42	n/a	38	40	45
People of color									
All	64	64	46	11	63	16	61	n/a	n/a
Black	64	n/a	n/a	n/a	n/a	n/a	56	36	63

Source: Author’s analysis of data from US Department of the Interior (1872b, 1883 [Table VII], 1902); Blodgett (1893); US Census Bureau (1913b, 1922).

Note: School attendance rates represent the number of attending pupils divided by the school age population. School age varied by census year. In 1850, 1860, 1890(a), and 1900, it was 5- to 19-year-olds; in 1870, it was 5- to 18-year-olds; in 1880, 5- to 18-year-olds; 1890(b), 1910, and 1920, 5- to 20-year-olds. In 1850, “colored” was synonymous with black; from 1860 onwards, it included other racial groups. Figures in 1890 (a) were published by the census bureau from the full census returns; those in 1890 (b) were based on returns from the state superintendent of schools to the census bureau.

black body, kick the black shins, and in the time of snow balls, the greatest weight of snow would fall on the blacks” (Librizzi 2009: 60–61). Most notoriously, the mixed community of Malaga Island never received a publicly funded schoolhouse. The island’s children only received a formal education in 1906 through private charity efforts (McBrien 2013).

Economic hardship also limits children’s access to education. While Maine had some early laws limiting the use of child labor and punishing truancy, the laws were irregularly enforced until federal legislation outlawed child labor. For many low-income families, the decision to send a child to school meant losing an income. Economic necessity likely depressed school enrollment among children from immigrant families and families of color (Table 4).

Available education data show that school enrollment was consistently lower for families of color and foreign-born whites. As noted in Tables 3 and 4, lack of access to education led to lower literacy rates for these groups compared to their white native-born peers, which in turn excluded them from suffrage and limited their economic opportunities.

Today, Mainers of color still face educational disparities. Black, Latino, and American Indian students graduate high school at lower rates than white Mainers (Annie E. Casey Foundation 2019). Black and Latino students in the University of Maine System are also less likely to graduate

within six years of enrolling than white students (Shapiro et al. 2019). White K–12 students in Maine are one-and-a-half times more likely to be enrolled in AP classes than Black students, while Black students are two-and-a-half times more likely to be suspended (Groeger et al. 2018).

Research shows that the underlying causes of these disparities include lack of economic means as well as individual and institutional bias against students of color. In 2017, the Maine ACLU found widespread examples of bullying and harassment against students of color in Maine’s schools, with discrimination practiced both by fellow students and by members of staff (LeBlanc 2017). Responses from the Maine Integrated Youth Health Survey show that students of color are less likely to feel that they have supportive teachers and less likely to think that schools enforce rules fairly (MIYHS 2019).

It’s not enough to ensure that students of color can attend Maine’s schools; they need to be able to thrive there. That means creating supportive learning environments that account for economic insecurity at home, as well as eradicating discrimination in our schools. Initiatives that work include zero tolerance for intolerance among staff and students; identifying cultural diversity as a positive factor within schools; fostering leadership from parents of color; and actively recruiting staff and faculty of color (LeBlanc 2017).

CONCLUSION

Maine's policymakers can't change the past. But they can strive to understand and learn from it. Maine's history of racially discriminatory public policy must be acknowledged if our next century of statehood is to be more equitable than the first two. One lesson to be drawn from our history is that merely removing explicitly racist laws is not enough.

While there are examples of explicitly racist policy in Maine's past, much of the harm was produced by laws that could be read as racially neutral. Maine's schools are no longer segregated, but students of color still face discrimination that limits their ability to succeed. Ibram Kendi notes that racism does not require action and that inaction in the face of discrimination supports racist ideas and outcomes. Only by being actively antiracist can we shift society, including public policy, towards racial equity (Kendi 2019).

Another lesson is that laws are influenced by the context in which they are written. Maine's prohibition laws and the more recent antidrug laws do not explicitly single out members of certain ethnic or racial groups, but they were prompted by racist fears of substance use among particular populations, and they have been enforced in ways that reinforce those assumptions. As a result, the criminal justice system has become caught in a cycle of perpetuating racist stereotypes while further harming communities of color.

Constructing these systems that benefit the white population at the expense of everyone else requires concentrating power in the hands of that same white population. Though relatively generous with its enfranchisement of Black Americans, Maine's constitution used other methods to systematically remove the right to vote from low-income and less well-educated Mainers, taking fundamental rights away from people of color and immigrants. Reversing that disenfranchisement means actively engaging with constituents of color to incorporate their perspectives into policy making. This includes empowering Mainers of color to engage with the legislative process, run for office, and ultimately be a part of government, rather than just the governed.

How can lawmakers change the course of Maine's public policy towards more racial justice? The legislature made a start in 2019, with the creation of a permanent

commission on racial, indigenous, and tribal populations, which will identify existing disparities and present solutions. The legislature now has an obligation to support the work of the commission and implement its suggestions. Another key tool is the use of racial impact statements. Just as legislation can be scored for fiscal impacts, it can also be examined for racial impacts. This approach ensures that racist policy is judged on its impact rather than its language or intention. States such as Connecticut have begun to use racial impact statements to ensure that legislation always improves race equity.

To truly achieve racial justice in Maine, policymakers need to be deliberately antiracist, with actions that work to overturn more than two centuries of harm. Lawmakers need to recognize the legacy of this harm and the need for targeted policies that repair it. Lawmakers need to continue to ensure that people of color aren't left out of broadly progressive economic measures like the minimum wage. Lawmakers need to be keenly aware that legislation can have racist effects even without racist language or intention and to consider the racial impact of new policies. Antiracism requires consistent and deliberate work, but it is possible. Mainers deserve no less. 🌈

NOTES

- 1 Maine State Legislature, "Legislative Record of the Ninety-Sixth Legislature of the State of Maine, Volume II, 1953." (1953) <https://www.maine.gov/legis/lawlib/lldl/legisrecord96.htm>.
- 2 Comm. on the Judiciary, US Senate, *Literacy Tests and Voter Requirements in Federal and State Elections: Hearings Before the Subcommittee on Constitutional Rights*, 87th Congress (1962). https://books.google.com/books?id=4NVju_iLD0wC&dq
- 3 Data from the Federal Bureau of Investigation's Uniform Crime Report, Crime Data Explorer website: <https://crime-data-explorer.fr.cloud.gov/explorer/state/maine/crime>.
- 4 *Royal Commission on Liquor Traffic, Minutes of Evidence, Volume V: The United States*, Ottawa, Ontario (1895). <https://books.google.com/books?id=c-ckAAAAYAAJ>.
- 5 The figure of 1,297 does not represent unique individuals, and some people may have been arrested multiple times over the course of the year. It may also include nonresidents who were arrested while in the city, or perhaps the marshal's office classified people as Irish even if they were born in the United States but had Irish parents. Even with these caveats, this represents a dramatic impact of police presence on one ethnic community.

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