



LEAGUE OF WOMEN VOTERS OF MAINE

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TO: The Honorable Senator John L. Tuttle, Jr.
The Honorable Representative Louis J. Luchini, Co-chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: March 4, 2013

RE: LD 573 RESOLUTION, Proposing an Amendment to the Constitution of Maine
To Restrict the Voting Privileges of Persons Incarcerated for Murder or Class A
Crimes

Good afternoon, my name is Valerie Marsh. I serve as a director on the state board of the League of Women Voters of Maine and on its Advocacy Committee. I'm a volunteer with the League, and I live in the town of Pittsfield.

The League of Women Voters believes that every citizen should be protected in the right to vote. Protecting that right and encouraging all citizens to exercise their right to vote is key to our democracy and central to the mission of the League of Women Voters. Because LD 573 proposes to deny some citizens access to the ballot box, we urge that you vote "Ought Not To Pass" on this bill.

The citizens who would be affected by this proposal have, no doubt, committed terrible crimes. But among the sentencing options these people face, loss of citizenship is not one. So long as citizenship pertains, so should the right to vote.

We understand that LD 573 concerns only incarcerated citizens, not those who have completed their sentence. But, quoting from Mark Mauer at The Sentencing Project:

 Serious questions can be raised ... regarding the loss of fundamental rights for people currently serving a felony sentence, whether in prison or on probation or parole. Our legal system generally makes a distinction between punishment – loss of liberty whether in prison or on probation – and the loss of rights. The only exceptions generally conceded by law and policy are those exercises of speech that might conflict with public safety concerns.¹

So what could this measure possibly accomplish? It is punitive, yes. But it won't protect public safety, and it won't prevent future crimes. Just the opposite: allowing and encouraging convicted citizens to vote in prison and after their incarceration has the effect of promoting citizenship and keeps "justice" in the criminal justice system. It is a

¹ Mark Mauer, "Felon Disenfranchisement: A Policy Whose Time Has Passed?" published in *Human Rights* by the American Bar Association, Volume 13, No. 1, Winter 2004.

step toward rehabilitation and inclusion, as opposed to punishment and alienation for people who will one day return to our communities and neighborhoods.

Meanwhile, there are real risks. Problems in other states in past elections have drawn headlines and demonstrated the difficulty in maintaining accurate voting lists when “purging” citizen offenders from the list. In some states, otherwise eligible voters had difficulty in voting because their names were erroneously purged as being similar to those of ineligible citizens convicted of a felony. Implementing this proposal would make it more difficult to maintain accurate voting lists, burden our election officials, and raise the potential of inconveniencing or intimidating eligible voters for an imperceptible public benefit.

Here’s another thing: in some other states, we see evidence of restrictive voting laws targeting demographic groups because of their voting tendencies. In some of these states, we see politicians trying to select the voters, rather than the voters electing the politicians. Thankfully, Maine has called a truce on the voting wars, at least for the time being. But it’s worth noting that among the handful of states with the most restrictive laws on felon disenfranchisement, four were key battleground states in the 2012 election: Florida, Virginia, Nevada and Iowa.

According to the Brennan Center for Justice, laws in other states that prevent felons from voting are deeply rooted in our country’s troubled racial history and have a disproportionate impact on minorities. And it’s not just in the South: a study released in 2010 of New York’s constitutional history traces that state’s current felony disenfranchisement law to a century-long effort to keep African-American citizens out of the voting booth.² The magnitude of prisoner and ex-felon disenfranchisement elsewhere in the United States – upwards of 6 million people – has serious implications for democratic process and racial inclusion. Maine should not go down this path.

Finally, states which still retain these restrictive laws are facing increasing challenges in the courts from voting rights advocates such as the ACLU, the NAACP, and the Brennan Center for Justice. Limiting a fundamental right of citizenship like voting raises a host of legal questions; preserving voting rights does not. In an area where Maine leads, we should not now make ourselves a target for this kind of litigation.

Maine has among the most inclusive voting laws in the country, making Maine one of the most truly democratic states in the Union. We should not begin now to implement practices that are less inclusive. Most importantly, the practice of disenfranchising citizens based on a felony conviction is inconsistent with the basic democratic principles of allowing all citizens to exercise the right to vote. On behalf of the League of Women Voters of Maine, I urge that you vote “Ought Not to Pass” on LD 573.

² Press release from the Brennan Center for Justice at NYU Law School, February 12, 2010, <http://www.brennancenter.org/press-release/new-yorks-felon-voting-bar-has-deep-roots-jim-crow> [February 26, 2013].