

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

SUMMARY REPORT  
TO THE  
ONE HUNDRED AND SIXTH LEGISLATURE

VOLUME ONE

JANUARY, 1973



STATE OF MAINE

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C O N T E N T S

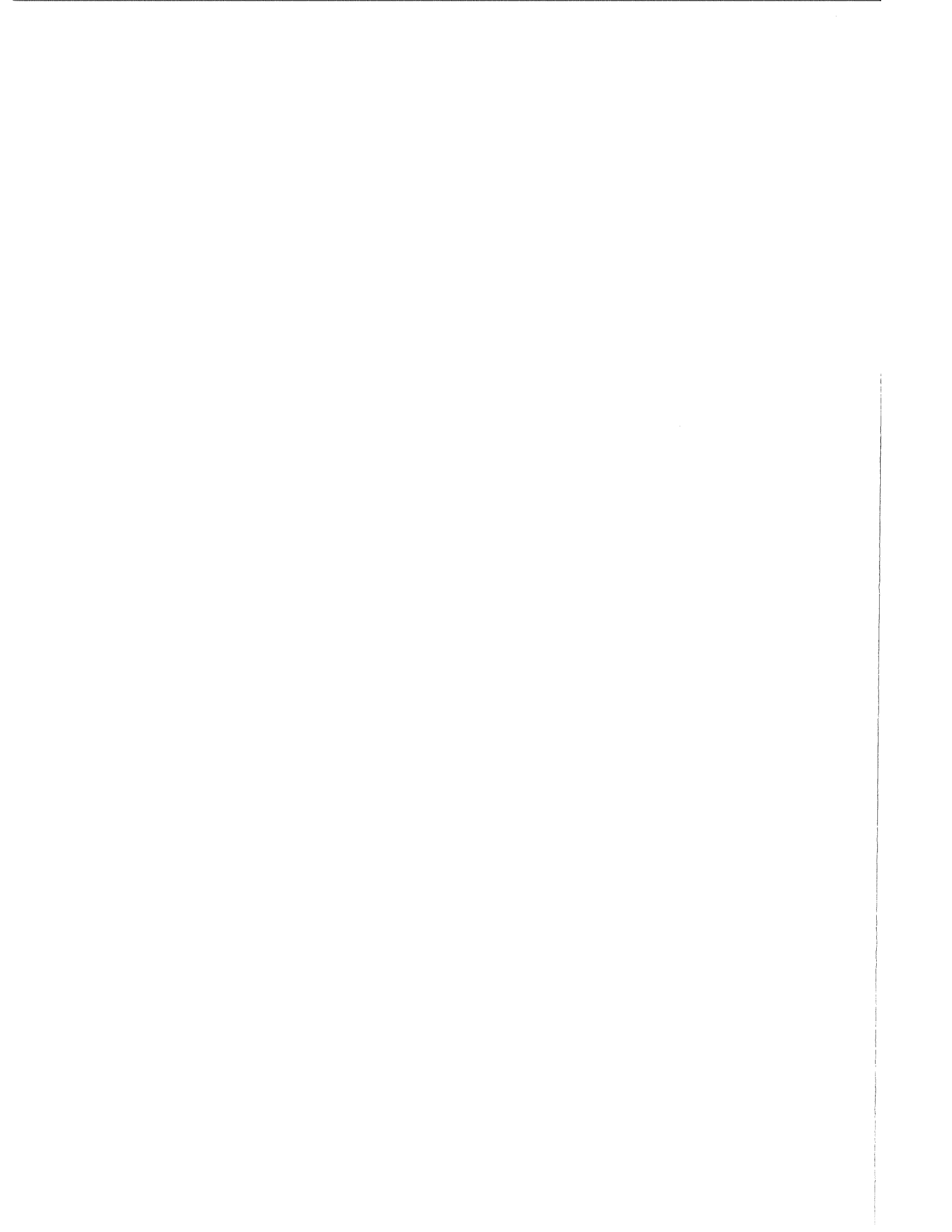
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STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE  
STATE HOUSE  
AUGUSTA, MAINE 04330

January 3, 1973

To the Members of the 106th Legislature:

The Legislative Research Committee hereby has the pleasure of submitting to you its report on activities for the past two years. This summary, designated as Volume I, deals with both assigned and unassigned studies and contains the findings and recommendations pursuant thereto.

The Committee was unfortunate in the loss of its original vice-chairman, the late Representative John E. Gill of South Portland. In his death on July 23, 1972, the State of Maine lost an able public servant. We of the Committee gratefully acknowledge our indebtedness to his ability and his contribution to the work of the Committee.

The Committee also wishes to acknowledge with appreciation the countless public and private individuals, organizations and agencies without whose assistance and cooperation the Committee would not have reached its conclusions.

The members of the Committee appreciate having been chosen to participate in this work and sincerely hope the results of many hours of work and devoted study transmitted here will prove beneficial to the members of the Legislature and ultimately to the citizens of the State of Maine.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "J. Sewall".

JOSEPH SEWALL, Chairman  
Legislative Research Committee



STATE OF MAINE  
LEGISLATIVE RESEARCH COMMITTEE

REPORT ON  
CORPORATE PURPOSES  
to the  
ONE HUNDRED AND SIXTH LEGISLATURE

JANUARY, 1973  
Legislative Research Committee  
Publication 106-13



## CORPORATE PURPOSES

WHEREAS, endowments are frequently made to incorporated public charities in reliance upon the fact that such endowments are to be used for the chartered corporate purposes of said charities; and

WHEREAS, the donors of such endowments frequently do not contemplate or provide for the contingency that may occur whereby the corporate purposes of an incorporated charity for which the endowment was intended to be used may be changed; and

WHEREAS, state law, Revised Statutes, Title 13, section 934, provides that any corporation organized without capital stock may change its purposes subject only to certain conditions provided in the Revised Statutes, Title 13, section 201; and

WHEREAS, there is, therefore, no assurance under present state law that a donor's funds will be applied as originally intended pursuant to the chartered purposes of a public charity; and

WHEREAS, such law only serves to frustrate the will of a giver and may operate to inhibit future acts of benevolence; now, therefore, be it

ORDERED, the Senate concurring, that the Legislative Research Committee is authorized and directed to study the provisions of existing law which provide a means whereby the chartered purposes and powers of charitable corporations can be amended and to determine whether or not it is in the best interests of the State to amend the law to provide greater assurance that a donor's funds will be applied in the manner intended; and be it further

ORDERED, that the Attorney General is instructed to provide the Committee with such information or technical assistance as the Committee deems necessary or advisable; and be it further

ORDERED, that the Committee report the results of its study at the next regular session of the Legislature; and be it further

ORDERED, upon passage in concurrence, that a copy of this Joint Order be transmitted forthwith to said Attorney General as notice of the pending study.

HP. 1602	House of Representatives	In Senate Chamber
Stillings	Read and Passed	Read and Passed
Berwick	March 2, 1972	March 7, 1972
	Sent up for concurrence	In concurrence

## SUBCOMMITTEE ON CORPORATE PURPOSES

CHAIRMAN - Walter L. Bunker

VICE CHAIRMAN - Guy A. Marcotte

John A. Donaghy

Roland A. Gauthier

Ronald S. Wight

## CHANGE OF CORPORATE PURPOSE

The Legislative Research Committee has studied the provisions of existing law and means whereby the chartered purposes and powers of charitable corporations can be amended to determine whether or not it is in the best interests of the State to provide greater assurance under the law that a donor's funds will be applied in the manner intended.

The nature of the problem is, as stated in the preamble of the legislative order directing the inquiry, H.P. 1602 of the 105th Legislature, that it is not uncommon for endowments to be made to incorporated public charities in reliance upon use of such endowments for the chartered corporate purpose of the charity.

In respect to such activity the Maine Revised Statutes, Title 13, section 934, provides that any corporation organized without capital stock may change its purpose subject only to certain conditions elsewhere provided in section 201.

Since donors of such endowments frequently do not contemplate or provide for the contingency that may occur whereby the corporate purpose of an incorporated charity for which the endowment was intended to be used may be changed, the law at times serves to frustrate the will of the giver and operates to inhibit future acts of benevolence.

It is generally recognized that statutory procedures to effect changes in the purposes of corporations chartered by the State are necessary and desirable at times. However, in the case of



charitable corporations, greater assurance that the donor's funds will be applied in the manner originally intended would seem imperative under the law if the practice is to continue.

To that end, the Committee heard the matter publicly and then in a series of executive meetings, technically assisted by the Attorney General's office as provided by order, and prepared the amendment shortly to follow.

The Committee does not feel any proprietary sense in submitting this proposal but would hastily point out it is legal and workable and more importantly, is designed to correct the unfortunate way the law has at times worked in the past:

An Act Clarifying the Laws Relating to Corporations Without Capital Stock.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 13, §934, amended. The first sentence of section 934 of Title 13 of the Revised Statutes as last repealed and replaced by section 1 of chapter 373 of the public laws of 1971, is amended to read as follows:

In addition to any other method provided by law, a corporation organized without capital stock may change the number of its officers, directors, trustees or managing board, however designated, and, if not specially chartered, change its purposes by altering, abridging or enlarging the same, and make any other changes in its certificate of organization as originally filed or subsequently amended that may be desired, provided such changes would be proper to insert in an original certificate of organization and, further provided that section 934-A, if applic-

able, has been complied with by said corporation.

Sec. 2. R.S., T. 13, §934, amended. Section 934 of Title 13 of the Revised Statutes as repealed and replaced by section 1 of chapter 373 and as amended, both by the public laws of 1971, is further amended by adding at the end a new sentence to read as follows:

A corporation organized without capital stock must include, as part of the certificate required by law to be filed for the purpose of changing its chartered purposes, a certification as to whether or not said corporation is or has been the recipient of funds or other property, in trust or otherwise, any part of which is being used, in accordance with the intent of the donor thereof, for one or more of the existing chartered purposes of said corporation.

Sec. 3. R.S., T. 13, §934-A, additional. Title 13 of the Revised Statutes is amended by adding a new section 934-A, to read as follows:

§934-A. Court determination

A corporation organized without capital stock which is or has been the beneficial recipient of funds or other property, in trust or otherwise, any part of which is being used, in accordance with the intent of the donor thereof, for one or more of the existing chartered purposes of said corporation, may only change its purposes, as provided in section 934, after a final determination has been made by a court of competent jurisdiction that such funds or other property may continue to be used by said corporation for one or more of its purposes which will exist after the proposed change in said purposes. Attested copies of such court

determinations relative to all such funds and property must be attached to the certificate of change of corporate purposes when it is filed pursuant to section 934.

Should a court of competent jurisdiction determine that such a corporation may not continue to use certain funds or property for one or more of its purposes after said change, said corporation may not so change its purposes until such time as it has divested itself of all beneficial interest in said funds or property and certification thereof is filed by said corporation with its certificate of change of corporate purposes.

Sec. 4. R.S., T. 14, §5956-A, additional. Title 14 of the Revised Statutes is amended by adding a new section 5956-A, to read as follows:

§5956-A. Corporations without capital stock

Any corporation organized without capital stock which is or has been the beneficial recipient of funds or other property, in trust or otherwise, any part of which is being used, in accordance with the intent of the donor thereof, for one or more of the existing chartered purposes of said corporation may, in accordance with Title 13, section 934-A, have determined whether or not such funds or property may continue to be used by said corporation for one or more of its purposes which will exist after a change in said purposes which it proposes to make pursuant to Title 13, section 934.

Statement of Fact

It is the intent of this Act to amend the law relating to change of corporate purposes to provide greater assurance that a donor's funds or property will be applied in the manner intended by a corporation which is the recipient of such funds or property for use for one or more of that corporation's chartered purposes.