

MAINE STATE LEGISLATURE

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July 22, 1980

Honorable James S. Henderson
Deputy Secretary of State
State Office Building
Augusta, Maine 04333

Dear Mr. Henderson:

This will respond to your opinion request of July 2, 1980 in which you seek our interpretation of 30 M.R.S.A. §1552(1)(A) (1978). In particular, you have inquired whether the Office of the Secretary of State is responsible for conducting the election of the six "voter members" of a county charter commission.¹ In order to place your question in perspective, it is necessary to examine the statutory provisions governing the establishment of a county charter commission.

By virtue of Chapter 486 of the Public Laws of 1977, the Legislature established a mechanism whereby the voters of each county could decide whether to create a charter commission for the purpose of adopting a new county charter or revising an existing charter. Pursuant to 30 M.R.S.A. §1551(1) (1978), the "county officers"² are authorized to adopt an order requiring that the

1. It should be pointed out that in an opinion dated March 8, 1978 this Office stated that the election of the "voter members" of a county charter commission is to be conducted under the auspices of the county commissioners. However, in a subsequent opinion dated September 27, 1978 this Office concluded that the election of the "voter members" of a county charter commission is to be conducted under the auspices of the Secretary of State as "in any other election." Hopefully, this opinion will resolve the conflict between the opinions issued on March 8, 1978 and September 27, 1978.

2. The phrase "county officers" is defined in 30 M.R.S.A. §1502(1) to "mean the county commissioners in a county or the officers, under a charter, who exercise legislative powers within the county."

question be submitted to the voters of the county as to whether a charter commission should be established. Alternatively, the question concerning the establishment of a charter commission shall be placed on the ballot "[o]n the written petition of a number of voters equal to at least 10% of the number of votes cast in the county at the last gubernatorial election,..." 30 M.R.S.A. §1551(2) as amended by P.L. 1979, C.671 (effective July 3, 1980). Within 30 days after the county officers have adopted an order pursuant to 30 M.R.S.A. §1551(1) or within 30 days after the receipt of a determination that the voter petitions are sufficient, "the county officer shall by order submit the question for establishment of a charter commission to the voters of the county at the next regular or special statewide election." 30 M.R.S.A. §1551(5) as amended by P.L. 1979, C.671.

With respect to the actual composition of the county charter commission, 30 M.R.S.A. §1552(1)(1978) provides that "[t]he charter commission shall consist of 9 members, 6 of whom shall be voters of the county, elected as hereinafter provided, and 3 of whom shall be appointed by the county officers." Section 1552(1)(A), as most recently amended by P.L. 1979, C.671, specifies the manner in which the "voter members" to the county charter commission are to be elected. It provides in its entirety:

"Voter members shall be elected in the same manner as county officers, and shall be elected by district if the county officers are so elected, except that they shall be elected without party designation. Election of voter members may be held at the same election as the referendum for the charter commission, but shall be held within 60 days of such referendum election. The names of the candidates shall be arranged alphabetically by last name immediately below the question relating to the charter commission. County officers are not eligible for election."

In determining whether the Secretary of State is responsible for conducting the election of members to a county charter commission we must start with the well-established principle that the language of a statute must be accorded its "plain meaning." See, e.g., Vance v. Speakman, Me., 359 A.2d 59 (1976). See also 1 M.R.S.A. §72 (3) (1979). Moreover, in construing a piece of legislation the courts will avoid an interpretation which produces illogical results. See, e.g., Woodcock v. Atlass, Me., 393 A.2d 167, 170 (1978); Cornwall Industries Inc. v. Maine Department of Manpower Affairs, Me., 351 A.2d 546, 553 (1976). Furthermore, we are cognizant of the fact that the Maine Supreme Judicial Court has stated that

"[u]nder the statutory procedures for conducting elections, primary responsibility is vested in the Secretary of State to make the necessary preparation for the conduct of an election."

Communist Party of the United States v. Gartley, Me., 363 A.2d 948, 950 (1976).

Section 1552(1)(A) mandates that "[v]oter members [of a county charter commission] shall be elected in the same manner as county officers...." The phrase "county officers" is defined by statute to mean "the county commissioners in a county or the officers, under a charter, who exercise legislative powers within the county." 30 M.R.S.A. §1502(1)(1978). See note 2 supra. We are not aware of any county which has adopted a charter form of government. Consequently, at the present time, the "voter members" of a county charter commission are to be elected "in the same manner" as are the county commissioners.

The manner of conducting an election for the office of county commissioner is governed by the statutory provisions contained in Title 21. In particular, 21 M.R.S.A. §§445 and 494 (1965-1979 Supp.) specifies the procedures by which an individual qualifies as a candidate for a county office, including the office of county commissioner. 21 M.R.S.A. §1(8) (1965-1979 Supp.). A candidate for county commissioner is required to file his petition with the Secretary of State. 21 M.R.S.A. §§445(8) and 494(9). By virtue of 21 M.R.S.A. §§447 and 496, the Secretary of State is required to determine the validity of a candidate's petition. Moreover, the Secretary of State must "forthwith certify" the nomination of a candidate for a county office. 21 M.R.S.A. §§451 and 497. Section 601 of Title 21 mandates that "[w]ithin a reasonable time before any election, the Secretary of State shall furnish each municipality with ballots, specimen ballots, instruction posters, election return forms, posters of specimen ballots for constitutional resolutions and statewide referenda...and other materials necessary for conducting and reporting the results of the election." Finally, the Secretary of State is directed to prepare the actual election ballots in accordance with specific statutory guidelines. 21 M.R.S.A. §§701 and 702.³

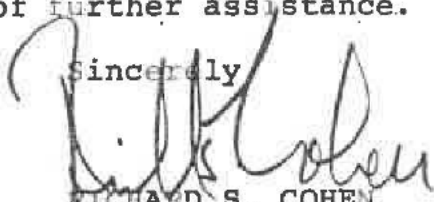
In view of the foregoing, it seems abundantly apparent that the Secretary of State is intricately involved in conducting the election of county commissioners. We must presume that the Legislature was aware of this involvement when it enacted 30 M.R.S.A. §1552(1)(A) to provide that "[v]oter members [of a county charter commission] shall be elected in the same manner as county officers..." State v. Beck, 156 Me. 403, 165 A.2d 433 (1961), app. dismissed, 367 U.S. 903 (1961). In the absence of evidence suggesting the contrary, it must be logically presumed that the Legislature intended exactly what it said, i.e., that the election of county charter commission members would be accomplished "in the same manner as county officers." The responsibility for conducting the election of county commissioners, who by definition are the county officers, rests with the Secretary of State. Accordingly, we conclude that the responsibility of conducting the election of "voter members" to a county commission pursuant to 30 M.R.S.A. §1552(1)(A) lies

3. We would also point out that 30 M.R.S.A. §105(1978) provides that the election returns for county commissioners "shall be transmitted to the Secretary of State."

with the Office of the Secretary of State.⁴

I hope this information is helpful to you. Please feel free to call upon me if I can be of further assistance.

Sincerely


RICHARD S. COHEN
Attorney General

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4. As observed previously, the phrase "county officers" is defined to include "the officers, under a charter, who exercise legislative powers within the county." 30 M.R.S.A. §1502(1)(1978). As most recently amended by Chapter 671, §22 of the Public Laws of 1979, 30 M.R.S.A. §1601(1) provides that "[t]he charter for any county may provide for the organization of county government, the election of a county legislative body, and the method of selecting officers, officials and employees..." Conceivably, once a county has adopted a charter, it could specify the manner in which the election of the "county officers" is to be conducted. This, in turn, could affect the manner in which members of the charter commission are elected pursuant to 30 M.R.S.A. §1552(1)(A). Since these issues were not raised in your letter of July 2, 1980, we intimate no opinion on them.