

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 458

H. P. 349 House of Representatives, January 28, 1971
Referred to Committee on Legal Affairs. Sent up for concurrence and
ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Bedard of Saco.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Amending and Restating the Act to Incorporate York Institute.

Emergency preamble. Whereas, Acts and resolves of the Legislature do not become effective until 90 days after adjournment unless passed as emergency legislation; and

Whereas, York Institute located at Saco, Maine is a corporation created by chapter 183 of the private and special laws of 1867, for the purposes described therein; and

Whereas, the Tax Reform Act of 1969, which amended the United States Internal Revenue Code of 1954, may result in York Institute being classified as a private foundation and thus subject to annual federal excise taxes unless York Institute takes steps to terminate its private foundation status; and

Whereas, payment of said excise taxes will reduce the resources of York Institute which would otherwise be available for the carrying out of its charitable purposes; and

Whereas, said Tax Reform Act of 1969 permits private foundations to terminate their private foundation status and thus avoid said excise taxes; and

Whereas, regulations under said Tax Reform Act of 1969 require that the corporate charter contain specified provisions to effect a termination of private foundation status; and

Whereas, said Chapter does not include such provisions; and

Whereas, it is advisable to make certain other changes in the governing instrument; and

Whereas, this Act will not otherwise become final within the time during which such provisions must be adopted in order for this Corporation to conform to the said Tax Reform Act of 1969 and the regulations thereunder at the earliest possible time ; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of the State of Maine, and require the following legislation as immediately necessary for the preservation of the public peace, health and safety ; now, therefore,

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

Sec. 1. The corporation created by the private and special laws of 1867, chapter 183, under the name of York Institute is hereby continued as a body politic.

Sec. 2. Its purposes shall be, in conjunction with and in furtherance of the functions and purposes of Dyer Library Association :

a. To maintain and operate the York Institute Museum, now located in the City of Saco, County of York and State of Maine, and promote the study of science and natural and civil history, encourage the fine arts and the collection and preservation of whatever relates to the history of York County ;

b. Such other charitable, scientific, literary and educational purposes as the Board of Directors deems appropriate.

Sec. 3. The powers of the corporation shall be all the powers necessary to carry out the foregoing purposes. Without limiting the generality of the foregoing, said corporation shall have the following powers :

a. To have a common seal ;

b. To have, receive and hold in fee simple or in any less estate by purchase, gift, grant, devise, bequest or otherwise, real estate and personal property, whether tangible or intangible to any amount ; to borrow money and to mortgage and pledge its interest in any property to secure the same ; and to purchase, sell, manage, operate, control and otherwise deal in real and personal estate of any name or nature ;

c. To make such bylaws not inconsistent with the charter and the laws of this State as the Board of Directors may deem appropriate, and, without limiting the generality of the foregoing, to provide therein for the qualification of and manner of selecting members of the Board of Directors, including selection by Dyer Library Association or some other organization described in Section 509 (a) (1) or (2) of the Internal Revenue Code of 1954, as amended, or the corresponding provision of any subsequent federal tax law ;

d. To have the same rights and be under the same liabilities as other charitable corporations in prosecuting and defending civil actions and to enjoy all other rights, privileges and immunities of a legal charitable corporation.

Sec. 4. The Board of Directors shall not be less than 7 in number and they shall also be the members of the corporation.

Sec. 5. The control and management of the corporation shall be vested in the directors, who may delegate such control and management as they see fit to Dyer Library Association or some other organization described in Section 509 (a) (1) or (2) of the Internal Revenue Code of 1954, as amended, or the corresponding provision of any subsequent federal tax law.

Sec. 6. The corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to tax on undistributed income imposed by Section 4942 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

The corporation shall not engage in any act of self dealing as defined in Section 4941 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

The corporation shall not retain any excess business holdings as defined in Section 4943 (c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws as to subject the corporation to a tax under such section.

The corporation shall not make any investments in such manner as to subject it to tax under Section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

The corporation shall not make any taxable expenditures as defined in Section 4945 (d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws.

Upon the dissolution of the corporation, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the corporation, dispose of all of the assets of the corporation exclusively for the purposes of the corporation in such manner, or to such organization or organizations organized in or under the laws of the State of Maine and organized and operated exclusively for charitable, educational, religious or scientific purposes as shall at the time qualify as an organization or organizations described in Section 509 (a) (1) or (2) of the Internal Revenue Code of 1954, or the corresponding provisions of any subsequent federal tax law, as the Board of Directors shall determine. Any of such assets not so disposed of shall be disposed of by the Superior Court of York County exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

Sec. 7. All prior acts and doings of this corporation are herewith ratified.

Sec. 8. As the private and special laws of 1867, chapter 183, section 2 provided that legal title to the real and personal property of the association should be in a Board of Directors consisting of the officers of the institute, a majority of the Board of Directors of York Institute are herewith authorized to convey to the corporation the legal title to all such real and personal property.

Sec. 9. At any time within 10 years from the date this Act becomes effective, this corporation may consolidate or merge as provided by the Revised Statutes of 1964, Title 13, section 961, as amended, or corresponding provisions of any subsequent statutes applicable to consolidations, or mergers of non-stock corporations, with Dyer Library Association, a Maine non-stock corporation originally incorporated under the private and special laws of 1881, chapter 2.

Sec. 10. The provisions of this Act shall supersede inconsistent provisions of any prior public or private and special law.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this Act is that stated in the emergency preamble.