

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

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**Legislative Document**

**No. 459**

H. P. 350

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.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-ONE

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**AN ACT Amending and Restating the Act to Incorporate Dyer Library Association.**

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**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, Dyer Library Association located at Saco, Maine is a corporation created by chapter 2 of the private and special laws of 1881, for the purposes described therein; and

Whereas, Dyer Library Association and York Institute, a corporation created by chapter 183 of the private and special laws of 1867, have historically cooperated in the performance of their charitable purposes and functions and have pooled their resources to that end; and

Whereas, by adding certain provisions to the governing instrument of Dyer Library Association which said Chapter does not now include, termination of the private foundation status of York Institute may be facilitated, thus permitting it to avoid certain federal excise taxes to which it would otherwise be subject, and thus preserving for both corporations full use of their respective assets for the performance of their charitable functions; 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 York Institute to avoid the impact of said federal excise taxes 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 1881, chapter 2, under the name of Dyer Library Association is hereby continued as a body corporate.

**Sec. 2.** Its purposes shall be:

a. To maintain and conduct the Dyer Library, now located in the City of Saco, County of York and State of Maine, which shall be forever free to the citizens of Saco, and to maintain and operate a museum in said Saco.

b. Such other charitable, scientific, literary and educational purposes as the Board of Trustees 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 rules and regulations as to the conduct of the library and to make such bylaws not inconsistent with this charter and the laws of this State as the Board of Trustees may deem appropriate;

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 control and management of the corporation, including, without limitation, the power to make bylaws, shall be vested in its Board of Trustees who shall be chosen in such manner as the bylaws shall provide and need not be chosen by or from the voting members of the corporation.

The Board of Trustees may delegate such control and management as it sees fit to another organization organized and operated exclusively for charitable, scientific, literary or education purposes, provided such delegate is an exempt organization under Section 501 (c) (3) of the Internal Revenue Code of 1954, as amended, or the corresponding provisions of any subsequent federal tax law.

**Sec. 5.** The voting members of the corporation shall consist of not less than 7 nor more than 9 persons, all of whom shall be citizens of Saco. Vacancies in the voting membership shall be filled by the remaining voting members by ballot, a  $\frac{2}{3}$  vote of such remaining members being requisite to a choice. The voting members shall elect the president of the association from the membership of the Board of Trustees and may act on such matters as may be submitted to them by the Board of Trustees.

**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 the 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, so 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 Trustees 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 exempt organization or organizations under Section 501 (c) (3) of the Internal Revenue Code of 1954, or the corresponding provisions of any subsequent federal tax law, as the Board of Trustees 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.** 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 statute, applicable to consolidations and mergers of nonstock corporations, with York Institute, a Maine nonstock corporation originally incorporated under the private and special laws of 1867, chapter 183.

**Sec. 9.** 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.