

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1648

S. P. 437

In Senate, April 12, 1977

Referred to Committee on Local and County Government. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Mangan of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Recognizing County Charters and Establishing County Charter Commissions.

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

30 MRSA c. 1, sub-c. VII is enacted to read:

**SUBCHAPTER VII
COUNTY CHARTERS**

§ 1121. Legislative recognition of county charters

The Legislature hereby declares that it recognizes each county charter in existence on the effective date of this section as being valid and binding upon the county and upon the State. The Legislature also declares that it is in the best interests of the people of this State and of the State's counties that each county be chartered and that this charter reflect the changing needs of the county.

It further declares that all statutes or ordinances in contradiction to a county charter valid on the effective date of this section are void and of no effect.

§ 1122. County Charter Commission

1. Establishment; composition. There shall be, on December 1, 1978, a charter commission established in each county of this State. Each charter commission shall consist of 9 members, 6 of whom shall be elected from county commissioner districts and 3 of whom shall be elected at large.

2. **Election.** Charter commission members shall be elected in the same manner as the county commissioners, except that 2 members shall be elected from each county commissioner district in each county and shall be residents of the district from which they are elected, and 3 members shall be elected at-large. The names of the candidates shall be arranged alphabetically by surname. The election of these members shall be held at a special election in each county to be held concurrently with the regular statewide election to be held in November, 1978.

3. **Organization.** The county commissioners shall immediately after receiving notice of the election of the members by the county clerks, notify the members of the charter commission of the date, time and place of the organizational meeting of the charter commission. Such date, time and place shall be fixed by the county commissioners no later than December 1, 1978, and 7 days' notice thereof shall be given.

The charter commission shall organize by electing from its members a chairman, vice-chairman and a secretary and shall file notice thereof with the county commissioners. Vacancies occurring on the commission shall be filled by vote of the commission from the voters of the county. Members shall serve without compensation but shall be reimbursed by the county commissioners for expenses lawfully incurred by them in the performance of their duties.

4. **Rules; regulations; staff.** The charter commission may adopt rules and regulations governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees and consultants as are deemed necessary within the limits of its budget.

5. **Funding.** A county shall provide its charter commission, free of charge, with suitable office space and with reasonable access to facilities for holding public hearings, may contribute clerical and other assistance to such commission, and shall permit it to consult with and obtain advice and information from county officers, officials and employees during ordinary working hours. Within 20 days after the election of a charter commission, the county commissioner shall credit to the charter commission account, the sum of \$500. A county may from time to time appropriate additional funds to the charter commission account. Such funds may be raised by taxation, borrowed or transferred from surplus.

In addition to funds made available by a county, the charter commission account may receive funds from any other source, public or private, provided that no contribution of more than \$5 shall be accepted from any source other than the county, unless the name and address of the person or agency making the contribution and the amount of the contribution are disclosed in writing filed with the county commissioners. Prior to the termination of its existence, the charter commission shall file with the county commissioners a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the county's surplus account.

6. **Hearings; reports; time limits.** Within 30 days after its organizational meeting, the charter commission shall hold a public meeting for the purpose of receiving information, views, comments and other pertinent material relative to its functions.

Within 8 months after its election, the charter commission shall prepare a report including the text of the charter revision which the commission intends shall be submitted to the voters and any explanatory information the commission deems desirable, shall cause such report to be printed and circulated throughout the county, and shall provide sufficient copies of the preliminary report to the county commissioners to permit its distribution to each voter requesting same. The charter commission shall also file its final report with the Secretary of State in order to permit him to prepare all ballots necessary for the electors of the county to vote on the commissioners' recommended revisions in accordance with subsection 7.

All public hearings before a charter commission shall be held within the county at such times and places as may be specified in a notice published at least 10 days prior to the hearing in a newspaper having general circulation in the county, but hearings may be adjourned from time to time without further published notice.

7. Election. Upon the filing of the report with the Secretary of State, the recommended charter revision shall be submitted to the county voters at an election to be held on the Tuesday following the first Monday of November 1979.

The city aldermen, town selectmen and plantation assessors of the county shall notify the inhabitants of their respective cities, towns and plantations in that county to meet, in the manner prescribed by law for holding a statewide election, to vote on the acceptance or rejection of these recommended charter revisions by voting on the following question:

"Shall the changes to the county charter recommended by the charter commission for this county be accepted?"

The legal voters of each city, town and plantation in the county shall vote by ballot on this question, and shall designate their choice by a cross or check mark placed within a corresponding square below the words "Yes" or "No." The ballots shall be received, sorted, counted and declared in open ward, town and plantation meetings in each county and returns made to the Secretary of State in the same manner as votes for members of the Legislature. The Governor shall review the returns, and, if it appears that a majority of the legal votes in the county are in favor of the recommended revision, the Governor shall proclaim that fact without delay, and the revisions shall become part of that county's charter 30 days after the date of his proclamation.

The Secretary of State shall prepare and furnish to each city, town and plantation all ballots, returns and copies of this Act necessary to carry out the purpose of this referendum.

8. Termination. The charter commission shall continue in existence for 30 days after submission of its final report to the county officers for the purpose of winding up its affairs.

STATEMENT OF FACT

All of the counties of the State have charters which form the fundamental law of these counties. By reason of the Maine Constitution, Article X, sec-

tions 3, 4 and 5, the charters of the counties as they existed in 1820 were incorporated into the Maine Constitution as part of the Articles of Separation.

Article X, sections 3, 4 and 5 of the Constitution of Maine, state in part :

Sec. 3. All laws now in force in this State, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

Sec. 4. The Legislature, whenever two-thirds of both houses shall deem it necessary, may propose amendments to this Constitution; and when any amendments shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

Sec. 5. All officers provided for in the sixth section of an Act of the Commonwealth of Massachusetts, passed on the 19th day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An Act relating to the separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State," shall continue in office as therein provided; and the following provisions of said Act shall be a part of this Constitution, subject however to be modified or annulled as therein is prescribed, and no otherwise, to wit :

.

"Seventh. All grants of land, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks within this Commonwealth, shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all lands heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society."

.

“Ninth. These terms and conditions, as here set forth, when the said District shall become a separate and Independent State, shall, ipso facto be incorporated into, and become and be a part of any Constitution, provisional or other, under which the Government of the said proposed State, shall, at any time hereafter, be administered; subject however, to be modified, or annulled by the agreement of the Legislature of both the said States; but by no other power or body whatsoever.”

.

As these charters are of vital importance to each county, this bill recognizes the charter of each Maine county, recognizes its provisions as preempting and binding, and provides for a charter commission in each county to recommend changes in its county charter in order to update this charter.

The charter for the counties of Cumberland and of Lincoln is set out below, as an example of current county charters. Where an appropriate blank appears, the name “Cumberland County” or “Lincoln County” should be inserted as needed.

An Act for erecting and establishing 2 new counties in the easterly part of the County of York.

Whereas, the great extent of the County of York makes it convenient that 2 new counties should be erected and established in the easterly part thereof.

Be it enacted by the Lieutenant Governor, Counsel and House of Representatives, that the County of York aforesaid that be, it thereby is said to be bounded on the east by a line to run from the sea northwesterly upon the easterly line of the township of Biddeford as far as Narragansett #1, from thence northeasterly on said Narragansett from the eastern most corner thereof; from thence northwesterly from said Narragansett to the northern-most corner thereof; from thence southwesterly over said Narragansett to Saco River; from thence up said Saco River Pearson Town extended thereon, and from thence to run north 2° west on a true course as far as the utmost northern limits of this province; all the other boundary lines of said county to remain the same heretofore.

Be it further enacted, that the westernmost of the 2 new counties aforesaid shall be and it is hereby declared to be, bounded on the west by the easterly line of the County of York above described; on the north by the utmost limits of this province; on the southeast by the sea or western ocean, and by Casco Bay; from the easterly point of which Bay West from Sunday Point that runs northwesterly upon said Casco Bay to new creek or river, and up said creek or river as far as Stevens Carrying Place at the head of said creek or river thence said carrying place to Merry Meeting Bay and on Androscoggin River; from thence it shall run up said Androscoggin River 30 miles and from thence not 2° west on a true course from the utmost northern limits of this province including all the islands in Casco Bay aforesaid and on the seacoast of the said new county. All the towns, districts, and islands within said bounds together aforesaid shall from and after the first day of November, 1760, be and remain one entire and distinct county by the name of Cumberland of which Falmouth be the shire or County town and the inhabitants

of said county of _____ shall have use, exercise and enjoy all such powers, privileges and immunities as by law the inhabitants of any other county within the province have used, exercised and enjoyed.

Be it further enacted that there shall be held and kept within the said county of a court of general sessions of the peace, and an inferior court of common pleas to sit at Falmouth the aforesaid on the first Tuesdays of May and September yearly and in every year until this court shall otherwise order.

Also that there shall be held and kept aforesaid at Falmouth until the court enact otherwise _____ Superior Court of Judicature Court of assise and general goal and delivery, to sit on the fourth Tuesday of June yearly and every year.

The justices of said court of general sessions of the peace, inferior court of common pleas, Superior Court of Judicature Court of assise and general jail delivery respectively, who are or shall be there unto lawfully confirmed and appointed shall have, hold, use, exercise and enjoy all and singular the powers which are by law already given and granted unto them within every other county of this province where a court of general sessions of the peace, superior court of common pleas, superior Judicature Court of assise and general jail delivery are already established.

Be it further enacted that the justices of the court of general sessions of the peace at their first meeting in the said county of _____ shall have full power and authority to appoint some fit person within the said county of _____ to be register of deeds and conveyances within the same, who shall be sworn to the faithful discharge of his trust in the said office and shall continue to hold and exercise the same according to the directions of the law, until some person be elected by the freeholders of the said county of _____ who are hereby empowered to choose such person at their first March meeting within their respective towns and districts in the method already by law prescribed; which person taking upon him that trust, shall be sworn to the faithful discharge thereof; and until such register _____ appointed by the said justices and sworn, all deeds and conveyances of land line within any part of the said county of _____ being recorded in the register's office of the County of York aforesaid shall be good and valid to all intents and purposes so far as relates to the record of them.

Be it further enacted that the method and proceedings directed to by law for the choosing of a register of deeds and conveyances and a county treasurer which such mentioned officer that be chosen and appointed in manner as the law directs at the next March meeting of the freeholdery aforesaid, also for the bringing forward and trying any actions, causes, pleas or torts both civil and criminal in the several counties of this province and courts of judicature within the same; and for choosing of jurors to serve _____ in practice within the said county of _____ and by the courts of justice within the same.

Be it further enacted that the most eastern county shall be bounded in the following manner, that is to say on the west by the county of _____ aforesaid; on the east by the province of Nova Scotia; and on the south and

southeast by the sea or western ocean and on the north by the utmost northern limits of this province; including all the islands of the county of aforesaid; and all the towns, districts and lands within said boundaries together with the aforesaid shall from and after the first day of November, 1760, be and remain one entire and distinct county by the name of Lincoln of which Pownalborough shall be the shire or county town; and the inhabitants of said county of shall have use, exercise and enjoy all such powers, privileges and immunities as by law the inhabitants of every other county within this province shall have use, exercise and enjoy.

Be it enacted that there shall be held and kept within the said county of a court of general sessions of the peace, and inferior court of common pleas to sit at Pownalborough aforesaid on the 2nd Tuesday of May and September yearly and in every year until the court shall otherwise order. The justices of the said court of the general sessions of the peace and the said court of common pleas, who are or shall be lawfully commissioned and appointed shall have, hold, use, exercise and enjoy all and singular the powers which are by law already given and granted to such justices within any other county of this province where a court of general sessions of the peace and inferior court of common pleas are already established. All appeals from any judgment or judgments given at any court of general sessions and in any inferior court of common pleas within the said county of shall be heard and tried at the Superior Court of judicature to be held yearly at Falmouth as aforesaid.

And be it further enacted that the Governor with the advice and consent of his majesty council, shall be authorized to appoint fore and during the term of 5 years from February next some fit person within the county of to be register of deeds and conveyances within the same, who shall be sworn to the faithful discharge of his trust in said office; and shall continue therein to the end of the term aforesaid or until some fit person be chosen and appointed in his stead by the freeholders and other inhabitants of the several towns and districts within the said county, qualified according to law to act in town and county affairs, and the said register shall be sworn to the faithful discharge of his office in the manner required by law; and shall act in said office according to the directions by law, and until a register shall be appointed and sworn all deeds and conveyances of land lying in any parts of the said county of being recorded in the registrar's office in the County of York aforesaid, shall be held good and valid to all intense purposes so far as relates to the recording of the same.

Be it further enacted that the method and proceedings directed to by law for choosing a county treasurer; also for the bringing forward and trying any actions, causes, pleas, or torts both civil and criminal in the several counties of this province, and courts of judicature within the same, and for choosing of jurors to serve at the several courts of justice, shall be observed and put in practice within the said county of and by the courts of justice within the same; any laws, usage or customs to the contrary notwithstanding and be it further enacted that all the writs, torts, , appeals, reviews

and recognizances and any other matters or things which are now or at any time before the first day of November, 1760, shall be pending in any court within the County of York, and all matters and things which are now or at any time before the said first day of November aforesaid, shall be pending before the judge of probate for the said County of York, shall be heard, tried, proceeded upon and determined at such time and place and in such manner as they would have been if this Act had not been made.

Be it further enacted that nothing in this Act contained shall be construed to disannul, defeat or make void and a deeds or conveyances of land, lying in either of the new counties aforesaid which are or shall be, before the establishment of a register in each count respecticely recorded in the register's office of the County of York aforesaid; but all such deeds and conveyances so recorded shall be held as good and valid as they would have been in case this Act had not been made.

Be it further enacted that the inhabitants of the several towns and districts within the counties aforesaid shall there tax _____ county rates or taxes already granted and made in the same manner as they would have done in case this Act had never been made.