

MAINE STATE LEGISLATURE

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E I G H T Y - N I N T H L E G I S L A T U R E

Legislative Document

No. 27

S. P. 55

In Senate, January 12, 1939.

Referred to Committee on Legal Affairs. Sent down for concurrence and 1,500 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Boucher of Androscoggin (by request).

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT to Grant a New Charter to the City of Lewiston.

Emergency preamble. Whereas, in the municipal affairs of the city of Lewiston a uniform history of an accumulation of increasing deficits has reached a point where the borrowing capacity of the city is practically exhausted and the municipal credit is seriously impaired, and

Whereas, the ability of the city to meet its current financial obligations is thereby threatened, and

Whereas, the confidence of the electorate in the prospect of financial improvement under the existing system of municipal government is rapidly waning, and

Whereas, the foregoing facts in the judgment of the legislature constitute an emergency within the meaning of the Constitution of the state 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 :

ARTICLE I

Municipal Establishment

Sec. 1. City of Lewiston incorporated. The inhabitants of the city of Lewiston shall continue to be a body politic and corporate by the name of the city of Lewiston, and shall have, exercise, and enjoy all the rights, immunities, powers, privileges, and franchises and shall be subject to all the duties, liabilities, and obligations provided for herein, or otherwise pertaining to or incumbent upon said city as a municipal corporation, or to the inhabitants or municipal authorities thereof; and may enact reasonable by-laws, regulations, and ordinances for municipal purposes, not inconsistent with the constitution and laws of the state of Maine, and impose penalties for the breach thereof, not exceeding \$20 in any one case, to be recovered to the use of said city on complaint or by other appropriate action before the municipal court of said city.

Sec. 2. City council and board of aldermen created. The administration of all fiscal, prudential, and municipal affairs of said city except as otherwise herein provided shall be vested in one body to be denominated and known as the city council which body shall consist of one principal magistrate to be styled the mayor who shall be an inhabitant of said city qualified to vote therein and 1 council of 7 to be denominated the board of aldermen each of whom shall be an inhabitant of the ward wherein he is chosen qualified to vote therein.

Sec. 3. Municipal officers. The mayor and board of aldermen shall be and constitute the board of municipal officers of said city.

ARTICLE II

Elections

Sec. 1. Election, where held, etc. An election shall be held on the 3rd Monday in February of each year, at which the qualified voters of the city shall ballot for a mayor and the qualified voters of each ward shall ballot for a member of the board of aldermen, a warden, and a ward clerk. All the votes cast for the several offices shall be sorted, counted, declared, and registered in open ward meeting as required by statute and the ward clerk in each ward shall forthwith deliver to the city clerk a certified copy of the record of such election. The municipal officers shall as soon as they conveniently can, examine the copies of the records of the several wards certified as aforesaid and shall cause the persons who shall

have been elected to the several offices to be notified in writing of their election.

Sec. 2. Run-off election. If it shall appear that no person has received a majority of all the votes cast for mayor, a special election to be known as a run-off election shall be held on the 1st Monday in March next thereafter at which election the names to be placed upon the ballot shall be determined as follows:

(1) If but one candidate has received the highest number of votes and but one candidate has received the next highest number of votes, their names only shall be placed upon the ballot.

(2) If 2 or more candidates have received the same number of votes and a number higher than those received by any other candidate, only the names of such candidates, whether they be 2 or more, shall be placed upon the ballot.

(3) If one candidate has received the highest number of votes and 2 or more candidates have received the same number of votes which number shall have been next lower than that received by the candidate receiving the highest number, only the names of the candidate who has received the highest number and the candidates, whether 2 or more, who have received the next highest number of votes shall be placed upon the ballot. The candidate receiving the highest number of votes at such election shall be declared to be elected.

Sec. 3. Run-off election for alderman. If it shall appear that in any ward no person shall have received a majority of all the votes cast for alderman, there shall be held a special election to be known as a run-off election in such ward on the 1st Monday in March next thereafter and the names to be placed upon the ballot shall be determined as provided in the preceding section.

Sec. 4. Law relating to run-off elections. All the provisions of law and of this charter covering the procedure at and following the annual election so far as they may be applicable shall apply to special and run-off elections.

Sec. 5. Election of warden and ward clerk. Election of warden and ward clerk shall be by plurality and in case of tie, the incoming city council shall elect one of the candidates receiving the highest number of votes.

Sec. 6. First election. The 1st election of mayor and aldermen under this charter shall be held on the 2nd Monday in April, A. D. 1939 to be fol-

lowed if need be by a run-off election on the 4th Monday in April next following and the said elections shall be conducted in the manner now provided by law for the holding of municipal elections. All the provisions contained in this charter relative to nominations and ballots shall apply thereto ; and upon the qualification of the officers so elected, the terms of office of the then existing corresponding officers shall cease and determine.

Sec. 7. Provisions relating to elections. All provisions of law relating to qualification of electors, registration, the manner of voting, the counting of votes, the duties of election officers, and all other provisions relating to the management of elections, so far as they may be applicable, shall govern all municipal elections except as otherwise provided in this charter. The warden shall preside at all ward meetings, with the powers of moderators of town meetings, and if at any meeting the warden shall not be present, the ward clerk shall preside and a warden pro tempore shall be chosen. The warden shall have all rights and powers now held by the warden of such ward. If neither the warden nor the ward clerk shall be present, any legal voter in the ward may preside until a clerk pro tempore shall be chosen and qualified. Immediately following the election of a ward clerk pro tempore a warden pro tempore shall be chosen. The clerk shall record all the proceedings and certify the votes given and deliver over to his successor in office all records and journals in his possession or under his control, together with all documents and papers held by him in his capacity as clerk. The ward clerk shall have and perform all rights and powers now held and performed by the ward clerk of such ward. All ward meetings shall be notified and called by the municipal officers in the manner provided by statute for notifying and calling town meetings by the selectmen of towns.

ARTICLE III

Nominations and Ballots

Sec. 1. Nominations by petition. The nomination of all candidates for elective offices shall be by petition and without party designation. The petition of a candidate for mayor shall be signed by not less than 200 nor more than 400 qualified voters of the city. The petition of a candidate for alderman, warden, or ward clerk shall be signed by not less than 100 nor more than 200 qualified voters of the ward wherein the candidate is to be elected. No voter shall sign petitions for more than 1 candidate for each office and should any voter sign more than 1 such petition, his signature shall be counted only upon the 1st petition filed and shall be held void upon all other petitions.

Sec. 2. Nomination papers. The signatures to nomination papers need not all be affixed to 1 petition but to each separate petition there shall be attached the affidavit of the circulator thereof stating the number of signers on such petition and that each signature appended thereto was made in his presence and is the genuine signature of the person whose name it purports to be. With each signature shall be stated the place of residence of the signer giving the street and number of the street or other description sufficient to identify the same. The form of nomination petition shall be substantially as follows:

To the City Clerk of the City of Lewiston:

We, the undersigned voters of the City of Lewiston, hereby nominate
.....whose residence is
.....for the office of.....,
to be voted for at the election to be held in the City of Lewiston on the
.....day of.....19....; and we in-
dividually certify that we are qualified to vote for a candidate for the
above office and that we have not signed more nomination petitions of
candidates for this office than there are persons to be elected thereto.
Name.....Street and Number.....

....., being duly sworn, deposes and says that
he is the circulator of the foregoing nominating petition containing.....
.....signatures, and that the signatures appended thereto were made
in his presence and are the genuine signatures of the persons whose names
they purport to be.

(Signed).....

Subscribed and sworn to before me this.....day of
....., 19....

.....
Justice of the Peace.
(or Notary Public.)

If this petition is deemed insufficient by the City Clerk, he shall forth-
with notify by mail.....at No.....
Street.

Sec. 3. Filing of petitions. The nomination petitions for any 1 candi-
date shall be assembled and united into one petition and filed with the city
clerk not earlier than 30 days nor later than 12 o'clock noon of the 3rd

Saturday prior to the day of election. No nomination shall be valid unless the candidate shall file with the city clerk in writing not later than 12 o'clock noon of the 3rd Saturday prior to the day of election, his consent accepting the nomination, agreeing not to withdraw, and, if elected, to qualify.

Sec. 4. Ballot. The face of the ballot shall be of substantially the following form :

City of Lewiston
Regular (or Special) City Election
Official Ballot

Ward.....

Candidates for office in the city of Lewiston at an election held on Monday theday of.....A. D. 19...

INSTRUCTIONS. To vote for any person make a cross in the square at the right of the name voted for. Do not vote for more than one candidate for any one office.

For Mayor

.....
No.....,Street
.....
No.....,Street

For Alderman

.....
No.....,Street
.....
No.....,Street

For Warden

.....
No.....,Street
.....
No.....,Street

For Ward Clerk

.....

No.....,Street

.....

No.....,Street

(Names of candidates for each office to be in alphabetical order and followed by blank space for name of voter's choice not nominated.)

(Facsimile signature)

City Clerk.

and on the back of the ballot shall appear the following :

City of Lewiston
Regular (or Special) City Election

Official Ballot

Ward

(Facsimile signature)

City Clerk.

Sec. 5. Preparation of ballots. Specimen ballots and official ballots for use in all city elections shall be prepared by the city clerk and furnished by the city. The city clerk shall cause appropriate specimen ballots to be posted in the voting places in each ward and advertised in the daily newspapers published in Lewiston not later than 7 days prior to the election, and not less than 3 days prior to a run-off or other special election. Such specimen ballots shall be printed on colored paper and marked "Specimen Ballot" but shall otherwise be facsimiles of the official ballot.

ARTICLE IV

The Mayor

Sec. 1. Duties of mayor. The mayor shall be the chief magistrate of the city. It shall be his duty to be vigilant and active in causing the laws and regulations of the city to be executed and enforced. He may call special meetings of the city council when in his opinion the interest of the

city requires it. He shall from time to time communicate to the city council such information and recommend such measures as the business and interests of the city may in his opinion require. He shall preside at the meetings of the city council but shall have no vote therein except for the purpose of breaking a tie.

Sec. 2. Term and salary. The term of office of the mayor shall be one year or until his successor shall have been elected and qualified. No person shall be eligible to the office of mayor for more than 2 terms in succession. The salary of the mayor shall be \$1,200 for the term which shall be in full for the performance of his official duties.

Sec. 3. Vacancy in office. In the event of a vacancy in the office of mayor occurring prior to the 1st day of December of the year in which he shall have been elected, a special election shall be held to fill such vacancy; warrant for such election shall be issued by the city council. Such election shall be governed by the provisions relating to nominations and elections elsewhere herein contained so far as they may be applicable.

ARTICLE V

The City Council

Sec. 1. President of council. The city council shall, as early in the term as may be, by ballot elect one of their number to be its president whose duties shall be to preside in the absence of the mayor and who in the event of a vacancy in the office of mayor shall perform the duties of that office until a mayor shall have been elected and qualified, save that he shall make no appointments which by the terms of this charter the mayor may be required to make; but while so acting, he shall receive only the compensation of an alderman.

Sec. 2. Ordinances. The power to enact, amend, or repeal ordinances shall vest in the city council. Every ordinance before final passage shall be published, marked "City of Lewiston, Proposed Ordinance" in the daily newspapers published in Lewiston at least 48 hours before the meeting at which such action is taken and shall take effect at the expiration of 30 days after it shall have been approved by a justice of the supreme judicial court. Every ordinance shall require on final passage the affirmative vote of at least 4 aldermen. The foregoing provisions shall govern procedure for the amendment or repeal of an ordinance.

Sec. 3. Appropriation resolve. The city council shall as soon as practicable after the 1st day of April in each year pass an appropriation resolve

giving due consideration to the recommendations of the board of finance made as hereinafter provided. Before final passage of an appropriation resolve, a public hearing thereon shall be held, notice of which shall be advertised in the newspapers published in Lewiston 48 hours at least prior thereto. No appropriation so made shall be increased or decreased nor shall any transfer from one department or appropriation to another be made except upon recommendation of the board of finance.

Sec. 4. Time of meetings. The city council shall, at its 1st meeting, or as soon thereafter as may be, establish by ordinance or resolution a regular place and time for holding its meetings, and shall meet regularly at least once a month.

Sec. 5. Vote, how taken. In all meetings of the city council the vote shall be taken by yeas and nays when directed by the mayor or requested by 2 aldermen.

Sec. 6. Quorum for aldermen. Four aldermen shall constitute a quorum of the city council for the transaction of its business.

Sec. 7. Vacancies. In the event of a vacancy in the office of alderman, the remaining members of the board shall elect a successor for the unexpired term who shall be an inhabitant of the ward in which the vacancy exists, qualified to vote therein; and in the event of more than 3 vacancies in the office of alderman existing at the same time, the city clerk shall forthwith issue his warrant for a new election to fill such vacancies.

Sec. 8. First meeting. The city council shall first convene on the 3rd Monday in March next following its election. At that time the terms of office of the members of the preceding city council shall terminate. At this meeting the mayor shall make the appointments which he is required annually to make. The city council first to be elected hereunder nevertheless shall first convene on the 2nd Monday following its election, and the terms of office of the then existing mayor and aldermen shall thereupon terminate. The terms of office of the members of this first city council shall expire upon the qualification of the corresponding officers who may be elected at the city election in the year 1940 notwithstanding they shall not have served for the full term of one year; and for the purpose of determining the expiration of the terms of the officers originally appointed under the provisions of this charter, such appointments shall be deemed to have been made as of the 3rd Monday in March, 1939.

Sec. 9. Compensation. The members of the board of aldermen shall receive as full compensation for the performance of their official duties the

sum of \$10 for each meeting of the city council which they shall attend provided that no alderman shall be paid an amount in excess of \$200 for such attendance during any one term.

ARTICLE VI

The City Clerk

Sec. 1. Appointment of city clerk. The city clerk shall be appointed by the mayor and shall hold office for 3 years or until his successor shall have been appointed and qualified. He shall be an inhabitant of the city qualified to vote therein and shall be sworn to the faithful performance of his duties. In the event of a vacancy in the office, the mayor shall appoint a successor for the unexpired term.

Sec. 2. Records to be kept. He shall keep full records of the doings of the city council and of the municipal officers. He shall perform all duties and exercise all powers by law incumbent upon or vested in town and city clerks generally and shall perform such other duties as the city council or the municipal officers may prescribe.

Sec. 3. Notices. He shall cause all persons appointed to office by the mayor seasonably to be notified of their appointment; he shall seasonably notify each member of the city council of all meetings of the council.

Sec. 4. Custodian of records. He shall be the custodian of all records and documents pertaining to his office; he shall at least annually under the direction of the board of finance cause to be printed a report of the various city departments.

Sec. 5. Record of qualification for office. He shall make and keep a record of the qualification of all such city officers as qualify before him and shall require and record certificates from the proper magistrates of the qualification of all such officers as qualify before them.

Sec. 6. Permits and licenses. He shall countersign and issue all permits and licenses which shall be duly granted and signed by any other officer, board, or commission of the city and make and keep a record of the same. Any duly authorized license or permit shall be deemed to be properly issued if it shall bear the signature of the city clerk and shall recite the source of its authority.

Sec. 7. Notices to board of finance. He shall in writing notify the board of finance and the treasurer of all acts, orders, or resolves of the city council authorizing appropriations, expenditures, assessments, appor-

tionments, abatements, or awards of damages immediately after their passage.

Sec. 8. Custodian of seal. He shall be the custodian of the seal of the city.

Sec. 9. Fees paid to city treasurer. He shall account monthly under oath and pay over to the city treasurer all fees received by him or payable to him by virtue of his office which may be receivable by the city.

Sec. 10. Salary. The salary of the city clerk shall be \$2,000 per year and he shall receive no other compensation or emoluments for the performance of his official duties except fees paid by the state.

ARTICLE VII

Corporation Counsel

Sec. 1. Appointment of corporation counsel. The corporation counsel shall be appointed by the mayor and shall hold office for one year or until his successor shall have been appointed and qualified. In the event of a vacancy in the office, the mayor shall appoint a successor for the unexpired term.

Sec. 2. Duties. He shall be the legal adviser for the mayor and aldermen and shall give legal advice pertaining to their official problems to the various boards and officers provided for herein.

Sec. 3. Other duties. He shall prosecute and defend all suits to which the city may be a party and shall perform such other duties as ordinarily appertain to the office.

Sec. 4. Limitation of legal services. Other legal services to be performed at the city's charge may be engaged only by the board of finance and with the approval of the city council.

Sec. 5. Salary. The salary of the corporation counsel shall be \$1,200 per annum which shall be in full for the performance of his official duties.

ARTICLE VIII

Board of Finance

Sec. 1. Members of board of finance. The board of finance shall consist of 5 members to be appointed by the mayor for a term of 5 years or until their successors have been appointed and qualified; save that at the

time of appointing the 1st board under this charter, the mayor shall designate the member whose term shall expire at the expiration of each period of one year for 5 years thereafter.

Sec. 2. Vacancies. Any vacancy occurring in the board shall be filled by appointment by the mayor for the unexpired term provided that if no appointment be made for the period of one month after the vacancy shall occur, it shall be filled by the remaining members of the board.

Sec. 3. Chairman. The mayor shall be ex officio the chairman of the board of finance but shall have no vote therein except for the purpose of breaking a tie.

Sec. 4. General supervision over finances. The board of finance shall have general supervision and full control over the several departments of the city so far as it relates to their financial transactions, records, and auditing and to the receiving and disbursement of monies.

Sec. 5. Estimates required. They may require from all boards or persons charged with the expenditure of funds, estimates of their respective requirements and shall at least one week prior to the 1st day of April in each year submit to the city council an estimate of the revenue of the city from sources other than direct taxation together with their recommendations in detail relating to appropriations for the year ensuing, at the same time causing a summary of their recommendations to be published in the daily newspapers published in Lewiston. They may from time to time during the year recommend to the city council increases or decreases in appropriations, or transfers as the same may in their judgment become needful.

Sec. 6. Powers on appropriation resolve. If on the 1st day of June in any year subsequent to the year 1939, the city council shall have failed finally to pass an appropriation resolve for the current year, its power so to do shall be at an end and the board of finance shall then and in that event perform that duty but no other power in this charter granted to the city council shall by reason thereof vest in the board of finance.

Sec. 7. Publishing of financial statement. Not later than the 10th of each calendar month, they shall cause to be published in the daily newspapers published in Lewiston a condensed statement of the financial condition of the city with the receipts and expenditures by departments during the preceding calendar month.

Sec. 8. Consulting duties. They may delegate one or more of their

members to attend meetings of other boards for the purpose of consultation in relation to their financial problems, and upon request they shall do so.

Sec. 9. May request aid from other boards. They may require other boards to delegate one or more of their members to attend their meetings for a similar purpose and their requisitions in such behalf shall be honored.

Sec. 10. May require audit. They shall require a financial audit or investigation in any city department or office when in their judgment the same should be done, and should such audit or investigation appear to them to disclose irregularities therein, they shall forthwith report such apparent irregularities to the appropriate board for action and if within what in their judgment is a reasonable time no satisfactory corrective action is taken, they may after public hearing, at which they shall have power to compel the attendance of witnesses and the production of books and papers, and on determination of misconduct, remove any official from office or order the discharge of any employee, provided that such official or employee shall have been seasonably furnished with a copy of the charges against him and have been given opportunity to be heard.

Sec. 11. Shall be purchasing agency. They shall constitute the general purchasing agency of the city for all materials, equipment, supplies, land, buildings and organized services. They may upon application from any department of the city and under such conditions and restrictions as they may impose authorize such department to purchase any such materials, supplies or other articles as may be made use of only in that department.

Sec. 12. Appointments. They shall appoint a controller who shall be the executive officer and clerk of the board; a collector of taxes and a city treasurer both of which offices may be held by the same person; and a chief auditor; all of which appointments shall be for one year or until their respective successors are appointed and qualified. They shall also appoint a board of assessors of 3 members whose term shall be 3 years save that when appointing the 1st board, they shall designate the member whose term shall expire at the expiration of each period of one year for 3 years thereafter provided that in the 1st instance a board of assessors shall not be appointed until the then existing board of assessors shall have completed the assessment of taxes for the current year and shall have issued their warrant of commitment as provided by section 81 of chapter 13 of the revised statutes of Maine of 1930. The assessors shall make report to the board of finance at least once a month of all abatements of taxes by them granted. Vacancies occurring in any of the offices so appointed, shall

be filled by appointment by the board of finance for the unexpired term. They shall have authority to employ such clerical or other assistants as may be required for the administration of the affairs of their office, prescribe their duties, fix their compensation, and terminate their employment at pleasure.

Sec. 13. Bonding. The board of finance shall require all city officers, agents, appointees, and employees whose duties require the receiving, handling, or disbursement of moneys belonging to the city to give bond to the city in a penal sum and with surety or sureties acceptable to the board, conditioned for the true accounting for and proper disposition of all such moneys. Premium charges for such bonds shall be paid by the city.

Sec. 14. Salary. The members of the board shall receive as full compensation for the performance of their official duties the sum of \$10 for each meeting of the board which they shall attend provided that no member shall be paid an amount in excess of \$400 for such attendance during any 1 year.

ARTICLE IX

Departments

Sec. 1. Departments created. The following administrative departments are hereby created, to wit: department of public works, police department, fire department, department of education, and department of health and welfare.

ARTICLE X

Department of Public Works

Sec. 1. Appointment of members. The affairs of the department of public works shall be administered by a board of 5 members to be appointed by the mayor for a term of 5 years or until their successors have been appointed and qualified; save that at the time of appointing the 1st board under this charter, the mayor shall designate the member whose term shall expire at the expiration of each period of one year for 5 years thereafter. Vacancies occurring in the board shall be filled by appointment by the mayor for the unexpired term provided that if no appointment be made for the period of one month after the vacancy shall occur, it shall be filled by the remaining members of the board.

Sec. 2. Certain duties of board. The department of public works shall be charged with responsibility for the construction, maintenance, and repairs of streets, bridges, sidewalks, and sewers; lighting of streets, public buildings and places; water supply; control and maintenance of public parks and lands; control, maintenance, and repairs of all public buildings except buildings occupied by the school department and the fire department during their actual period of occupancy; and disposal of ashes and rubbish.

Sec. 3. Regulations and orders. The board may under such regulations or orders as they may establish or pass construct sidewalks of such material as they may determine with suitable curbs on any street or any portion thereof. The expense of said sidewalks shall be determined by the board of finance who may direct not exceeding one-half the cost thereof to be assessed on adjacent lots provided that no owner or proprietor shall be assessed for more than 200 feet in length of sidewalk on any one street in front of any unimproved lots or parcels of land. They shall make the assessment and certify the same to the collector of taxes within one year from the time of the completion of said sidewalks together with their warrant of commitment for the collection of the sums so assessed from the persons against whom the taxes upon the respective lots are assessed. Such assessments shall constitute a lien upon the respective lots until paid and may be enforced by action of debt if not paid within 3 months from commitment.

Sec. 4. Employees. The board shall have full power and authority to employ such superintendents, engineers, inspectors, foremen, agents, and employees as may be required for the administration of the affairs of the department, prescribe their duties, fix their compensation, and terminate their employment at pleasure.

ARTICLE XI

Police Department

Sec. 1. Police department; how constituted. The police department shall consist of a police commission of 3 members, hereinafter in this article referred to as the commission, to be appointed by the governor with the advice and consent of his council, a chief of police, 2 captains, 2 inspectors, one police matron, one police clerk and such number of patrolmen, not to exceed one for each 900 of the population of the city, as the commission shall deem necessary, the entire personnel of which as existing

when this charter takes effect shall continue subject to the provisions hereinafter contained.

Sec. 2. Appointment of members. The commission as constituted when this charter takes effect shall be and continue as the commission herein established, the members thereof to serve in accordance with their respective appointments without interruption and as the terms of the members thereof shall expire, the governor with the advice and consent of his council shall appoint their successors for the term of 6 years. In the event of a vacancy in the commission, the governor shall in like manner appoint a successor for the unexpired term. The members of the commission shall be appointed from the 2 political parties casting the highest number of votes for governor in the last preceding state election.

Sec. 3. Organization. The commission shall elect from their number a chairman and a clerk and shall maintain the organization of the police department as herein prescribed.

Sec. 4. Rules and regulations. The commission shall have full power and authority, subject to the provisions of this charter, to organize and establish the police force of the city and to make all rules and regulations for the government, control and efficiency of the same. Nothing herein contained shall be held to deprive the commission of any powers hitherto by them had and lawfully exercised.

Sec. 5. Eligibility to force. Any citizen of the city between the ages of 24 and 40 shall be eligible to appointment as a patrolman provided he shall have made written application therefor and shall have satisfactorily passed the qualification tests prescribed by the commission.

Sec. 6. Applications and tests of candidates. Candidates for appointment as patrolmen shall make application therefor to the commission upon blanks furnished by it and shall submit to such qualification tests as may be prescribed by it. The commission by such qualification tests shall inquire into the physical, mental, and moral fitness of each of the applicants for appointment. They shall place upon an eligible list the names of all applicants who shall satisfactorily meet such tests, and every appointment shall be made from men whose names appear upon the eligible list. The name of each applicant shall remain upon the list for the period of one year from the date of his examination. The physical examination prescribed by the commission shall be conducted by a physician designated for that purpose by it, and the fee for such physical examination shall be paid in advance by the applicant. Every patrolman shall be appointed to serve

until he shall arrive at the age of 65 years when he shall be retired, unless previously removed by the commission as hereinafter authorized.

Sec. 7. Powers of officers. All patrolmen, including captains, shall have and exercise within the limits of the city all the common law and statutory powers of constables, except service of civil process, and all powers given to police officers by the statutes of the state, by this charter and by the ordinances, by-laws and regulations of the city, and such special powers as may be conferred upon them by the commission under the authority of this charter.

Sec. 8. Terms, powers and duties of superior officers. The chief of police shall be chosen by the commission by written ballot for a term of 4 years from the date of his election, or until his successor shall be elected and qualified provided that the person holding said office when this charter takes effect shall continue therein for the remainder of the term for which he has been chosen. He shall have and exercise all the powers and authority by him hitherto had and lawfully exercised together with all the powers and authority conferred by the general laws of the state and such special powers and authority as may from time to time be delegated to him by the commission. Captains and inspectors shall be appointed by the commission and shall hold office during good behavior or until retired under the provisions of this charter. Captains and inspectors shall have such duties and powers as may be delegated to them by the commission, or by the chief of police under the authority of the commission. The police clerk shall hold office during the pleasure of the commission. He shall perform such duties as may be prescribed by the chief of police under the authority of the commission.

Sec. 9. Removal of chief of police. The chief of police may be removed by the commission for cause. He shall upon request be furnished with a written copy of the charges against him, and shall be given a public hearing before action by the commission. Such hearing shall be held upon charges made by the commission or upon written charges being filed with the commission by 5 or more citizens of the city.

Sec. 10. Vacancy of office of chief; how filled. In the event of the removal of the chief of police as hereinbefore provided, or in the event of his incapacity through illness or otherwise, to perform the duties of his office, one of the captains to be designated by the commission shall assume the duties of the chief of police until his successor shall have been elected by the commission and he shall have qualified.

Sec. 11. Police matron. A police matron shall be appointed by the

commission for a term of 2 years with such powers and duties as may be delegated by the commission. The salary of said police matron shall be \$1,000 per annum payable in equal weekly installments by the city treasurer.

Sec. 12. Special patrolmen. Special patrolmen with pay shall be appointed by the chief of police from a list furnished him by the commission, for a period of from 1 to 30 days and such special patrolmen shall receive a salary of \$4 per day, to be paid by the city treasurer upon approval by the chief of police. Special patrolmen without pay may be appointed by the chief of police for a period of not more than 1 year for private duty.

Sec. 13. Punishment of officers. Patrolmen and captains when guilty of irregular conduct shall be punished by fine not to exceed \$100 or by suspension without pay not to exceed 30 days for each offense; or by removal for cause on complaint of the chief of police to the commission upon charges filed by the commission itself, or upon written complaint signed by any 5 citizens of the city, except that the chief of police may suspend any patrolman for misbehavior or neglect of duty for a period not exceeding 1 week without preferring charges to the commission, for each offense. In all cases, patrolmen when notified of such charges shall be entitled to a copy thereof and to a public hearing at such time and place as the commission shall designate and the findings of the commission upon such charges shall be final. When fines shall have been imposed, they shall be paid to the city treasurer and the patrolman so fined shall stand suspended, without pay, until the order shall be complied with.

Sec. 14. Salary and vacation of chief. The salary of the chief of police shall be \$2,100 per annum, payable in equal weekly installments by the city treasurer. He shall be entitled to 2 weeks' vacation each calendar year with pay, to be taken when and as he may desire. While upon vacation, or when incapacitated through illness, or absent from his office on the business of the department, the duties of his position shall be assumed by the senior captain.

Sec. 15. Salary of police officials. Police captains shall each receive a salary of \$1,800 per annum payable in equal weekly installments by the city treasurer. Inspectors shall each receive a salary of \$1,800 per annum payable in equal weekly installments by the city treasurer. The police clerk shall receive a salary not to exceed \$1,600 per annum payable in equal weekly installments by the city treasurer.

Sec. 16. Salary of patrolmen. The salary of each patrolman shall be \$1,600 per annum, until he shall have served 5 years when he shall receive

\$1,700 per annum, payable in equal weekly installments by the city treasurer. Each patrolman shall be entitled to a vacation of 2 weeks in each calendar year with pay at such time as may be prescribed by the chief of police.

Sec. 17. Fees from municipal court to be accounted for. All fees paid to the chief of police, captains, inspectors, police matron or any patrolman in their said capacities, from cases in the Lewiston municipal court, shall be accounted for by such officers, and turned into the treasury of the city of Lewiston when received by them.

Sec. 18. Number of patrolmen may be increased. The commission shall have power subject to the approval of the municipal officers to increase the number of patrolmen provided for in this charter. The patrolmen so created shall be appointed by the commission and shall be subject to all the other provisions of this charter.

Sec. 19. Constables. The commission shall appoint such number of constables resident in each ward as they may determine for the term of one year and shall appoint all such dog officers and other officers for the performance of police duty as they may deem expedient and shall fix their compensation.

Sec. 20. Enforcement of traffic laws; sealer of weights and measures; term of office; salary. The commission shall be charged with the enforcement of all laws and ordinances relative to the regulation of traffic and to the subject of weights and measures and shall appoint a sealer of weights and measures for the term of 1 year and fix his compensation.

Sec. 21. Retirement; permanent disability. Any member of the Lewiston police department who shall have arrived at the age of 65 years in active service, or any member who while in active service has become permanently disabled, or any police officer of the city who was a member of the police department at the time of the enactment of chapter 37 of the private and special laws of 1917 and who was appointed by the police commission created by said act and who thereafter, but prior to the enactment of this charter, arrived at the age of 65 years, while in active service, shall be entitled to $\frac{1}{2}$ of the pay which such member received at the time of his retirement or permanent disability.

Sec. 22. Pensions, application for. When application is made for pension because of permanent disability while in active service, the applicant shall satisfy the commission that he is permanently disabled.

Sec. 23. Granting of pensions. The commission shall investigate and pass upon all matters pertaining to the pensions of policemen, in accordance with the provisions of this charter, and shall have authority to grant such pensions as provided herein.

Sec. 24. Payment of pensions. The pensions specified in this charter shall be paid monthly by the city treasurer and no pension shall be allowed unless application therefor shall be made to the commission.

Sec. 25. Petition for retirement. Any member of the police department who hereafter reaches the age of 60 years, and who has served not less than 25 years, shall be retired on his petition, and thereupon become entitled to the benefits of this charter, provided, however, that no provision of this charter shall be construed to include the chief of the police department.

Sec. 26. Pensions previously granted to remain valid. Nothing herein contained shall be held to deprive any member of the police department who may be receiving a pension when this charter takes effect of the benefits of such pension.

ARTICLE XII

Fire Department

Sec. 1. Responsibilities. The fire department shall be charged with responsibility for fire prevention, fire protection, and the extinguishment of fires; building inspection and the issuing of building permits; and the control and inspection of electric wiring, equipment, and appliances.

Sec. 2. Fire department, how constituted. The affairs of the fire department shall be administered by a fire commission of 3 members to be appointed by the mayor for a term of 6 years or until their successors have been appointed and qualified; save that at the time of appointing the first commission under this charter, the mayor shall designate the member whose term shall expire at the expiration of each period of 2 years for 6 years thereafter. Vacancies occurring in the commission shall be filled by appointment by the mayor for the unexpired term provided that if no appointment be made for the period of one month after the vacancy shall occur, it shall be filled by the remaining members of the commission.

Sec. 3. Permanent membership. All members of the department designated as permanent members when this charter shall take effect shall continue as such and the commission may require a period of trial service of

not less than 6 months of any applicant for permanent membership before enrolling him upon the list of permanent members.

Sec. 4. Officers; inspector of buildings; inspector of wiring. The commission may employ a chief engineer, a superintendent of fire alarm, such assistant engineers and such other officers, members and employees of the department as they shall deem necessary, shall direct their organization, prescribe their duties, fix their compensation, and terminate their employment at pleasure; save that permanent members of the department shall not be removed unless for inefficiency or other cause detrimental to the service of the department and after hearing. They may also appoint an inspector of buildings, an inspector of electric wiring, equipment, and appliances and such clerks and assistants to these officials as they may deem necessary, prescribe their duties, fix their compensation and terminate their employment at pleasure.

Sec. 5. Executive officer. The chief engineer shall be the executive officer of the commission and shall have full control and direction of the members of the department and when engaged in the extinguishment of fire shall have full control of all persons not connected with the fire department whose presence at or in the vicinity of a fire may be deemed by him to be attended with hazard to themselves or to hinder the work of the firemen.

Sec. 6. Certain duties. The commission shall make suitable provision for the protection of life and property in case of fire, shall have full control of all buildings used as fire stations, and shall be charged with their maintenance, repairs, and up-keep but only so long as they are so used, and shall have full control of the fire alarm telegraph system and all the apparatus of the fire department.

Sec. 7. Rules and regulations. The commission may make such rules and regulations not inconsistent with law, this charter, and the city ordinances for the government and efficiency of the department as they may deem advisable.

Sec. 8. Hearings. The commission may conduct hearings for the purpose of determining the cause of fires or concerning any matter within the authority of the department at which they shall have power to compel the attendance of witnesses and the production of books and papers and to administer oaths to witnesses.

Sec. 9. Committee on pensions. The commission shall appoint a committee of 5 citizens who shall constitute a committee on firemen's pensions

to investigate all matters pertaining to the pensions of firemen in accordance with the provisions of this charter. Any vacancies occurring in this committee shall be filled by the commission.

Sec. 10. Granting of pensions. Any member of the fire department who shall have been honorably discharged from the department, as hereinafter provided, by reason of having served 25 years or more in the department, shall be entitled to and paid a pension equal to $\frac{1}{2}$ of the pay which he received at the time he was discharged from the department.

Sec. 11. Qualifications of permanent members for pensions. Any permanent member of the fire department who shall have been honorably discharged from the department, as hereinafter provided, and who has become permanently disabled while in the actual performance of duty in the department, shall be entitled to and paid a pension equal to $\frac{1}{2}$ of the pay which such member received at the time he was discharged from the department.

Sec. 12. Qualifications of call members for pensions. Any call member of the fire department who shall have been honorably discharged from the department, as hereinafter provided, and who has become permanently disabled while in the actual performance of duty in the department, shall be entitled to and paid a pension equal to $\frac{1}{2}$ the lowest salary then paid to any permanent member of the fire department, but not less than \$25 a month.

Sec. 13. Investigation before payment of pension. The pensions hereinbefore specified shall be paid monthly by the city treasurer and no pension shall be allowed unless application therefor shall be made to the commission nor unless the matter shall have been inquired into by the committee. The committee shall first hear all parties interested and shall report its findings to the city council at the next regular meeting after the matter has been referred to the committee.

Sec. 14. Certificate from physician. When application is made for pension under the preceding sections, the city physician and some other competent physician authorized by the committee to act in the premises shall certify to the committee in writing that such applicant is, in their opinion, permanently disabled.

Sec. 15. Honorable discharge a requisite. No person employed in any of the departments of the fire department above mentioned shall be entitled to said pension above named unless and until he shall have received an honorable discharge from said committee on firemen's pensions. Blank

application addressed to the committee by the applicant requesting his discharge shall be furnished him by the committee, and if no charges are pending against him at the time the application is presented, he shall be entitled to an honorable discharge.

Sec. 16. Pensions previously granted to remain valid. Nothing herein contained shall be held to deprive any member of the fire department who may be receiving a pension when this charter takes effect of the benefits of such pension.

ARTICLE XIII

Department of Education

Sec. 1. Board of education. The affairs of the department of education shall be administered by a board of education of 5 members, who may have all the powers conferred and shall perform all the duties imposed by law upon superintending school committees.

Sec. 2. Appointment of members. The board of education existing when this charter takes effect shall be and continue as the board of education herein established, the members thereof to serve in accordance with their respective appointments without interruption and the mayor shall annually appoint a member for the term of 5 years, to take office on the 1st day of May next succeeding. Vacancies occurring in the board shall be filled by appointment by the mayor for the unexpired term provided that if no appointment be made for the period of 1 month after the vacancy shall occur, it shall be filled by the remaining members of the board.

Sec. 3. Duties. They shall have control and management of all school buildings and lots and shall be charged with their repairs and maintenance, but only while such buildings are used for school purposes and shall have the control and care and be charged with the up-keep of all athletic parks and public playgrounds; and they shall have supervision of public recreational activities.

Sec. 4. Officers, agents and employees. They may employ a superintendent of schools and such janitors, truant officers, directors of recreational activities and other agents and employees as they may deem necessary, prescribe their duties, fix their compensation, and terminate their employment at pleasure.

ARTICLE XIV

Department of Health and Welfare

Sec. 1. Administration of affairs. The affairs of the department of health and welfare shall be administered by a board of 5 members to be appointed by the mayor for a term of 5 years or until their successors have been appointed and qualified; save that at the time of appointing the first board under this charter, the mayor shall designate the member whose term shall expire at the expiration of each period of 1 year for 5 years thereafter. Vacancies occurring in the board shall be filled by appointment by the mayor for the unexpired term provided that if no appointment be made for the period of 1 month after the vacancy shall occur, it shall be filled by the remaining members of the board.

Sec. 2. Board of health and welfare to supervise health officer. The board of health and welfare shall appoint a health officer for a term of 3 years, subject to the approval of the state commissioner of health and welfare as now provided by law. Said health officer shall appoint one or more plumbing inspectors for a term of one year subject to the approval of said commissioner as now provided by law. They shall have general supervision over said health officer.

Sec. 3. Management and operation of city farm; public cemeteries. The department of health and welfare shall be charged with the management and operation of the city farm so long as it shall be maintained as such, the promotion of the public health, the supervision of plumbing including the enforcement of laws and ordinances relating thereto, the disposal of garbage, and the control, care, and maintenance of public cemeteries.

Sec. 4. Overseers of the poor. The board of health and welfare shall be and constitute the board of overseers of the poor and shall perform the duties imposed by law upon overseers of the poor of cities and towns generally.

Sec. 5. City physician. They may employ a city physician, prescribe his duties, fix his compensation, and terminate his employment at pleasure.

Sec. 6. Employees. They may employ such superintendents, inspectors, foremen, and employees as may be required for the administration of the affairs of the department, prescribe their duties, fix their compensation, and terminate their employment at pleasure. They may delegate to such subordinate officer as they may see fit power and authority to sign for them and in their behalf all notices and other documents which by statute are required to be executed by the board of overseers of the poor.

ARTICLE XV

Public Safety

Sec. 1. Board of public safety. The police commission and the fire commission shall be and constitute a board of public safety.

Sec. 2. Police commission and fire commission may act in conjunction. Upon request of 2 members of either the police commission or the fire commission, the 2 commissions shall meet jointly for discussion of and action upon any matter which may be of joint concern to the 2 commissions or concerning which uncertainty may exist as to which of the 2 commissions may have jurisdiction. Any action of the board of public safety shall be by concurrent majority votes of the 2 component commissions.

ARTICLE XVI

Miscellaneous Provisions

Sec. 1. Employee of city to hold only one city office. Except as otherwise herein provided, no person holding any city office, elective or appointive, shall at the same time hold any other city office or be otherwise employed by the city.

Sec. 2. Registration of members in political parties. Not more than 3 members of the board of finance or of any departmental board of 5 shall be registered in the same political party at the time of appointment and not more than 2 members of any such commission of 3 shall be so registered.

Sec. 3. Oath of office. All officers provided for in this charter whether elective or appointive shall before assuming their respective duties qualify by being sworn to the faithful performance thereof before the city clerk or some magistrate thereto qualified.

Sec. 4. Rules governing administration of affairs may be enacted. The board of finance and the several departmental boards and commissions provided for herein may each enact rules governing the administration of their affairs not inconsistent with the provisions of law, of this charter, or the ordinances of the city.

Sec. 5. Temporary loans. Temporary loans in anticipation of taxes may be negotiated only as recommended by the board of finance during any fiscal year but the aggregate amount of such loans outstanding at any one time shall not exceed 80% of the revenue received from taxes during

the preceding fiscal year. All such loans shall be repaid within the year from receipts from taxes for the fiscal year in which said loans are made.

Sec. 6. Removal from office. The mayor, members of the board of aldermen, of the board of finance, or of any of the departmental boards and commissions herein created may be removed for cause on petition signed by not less than 10 inhabitants of the city who have attained their majority. Such petition shall be addressed to a justice of the supreme judicial or superior court and shall state the grounds upon which removal is sought. It may be entered in the clerk's office of the superior court in Androscoggin county in term time or in vacation. On proof of service of such notice as the justice may order and hearing, the respondent member may by order of the justice, from which no appeal shall lie, be removed from office. Nonfeasance as well as misfeasance in office may be assigned as ground for removal.

Sec. 7. Compensation of departmental boards. The members of the several departmental boards and commissions shall receive as full compensation for the performance of their official duties the sum of \$5 for each board meeting which they may attend, provided that no member shall be paid an amount in excess of \$200 for such attendance during any one fiscal year. No member of the board of finance or of any departmental board or commission who may be chosen to serve as its presiding or recording officer shall receive any additional compensation for such service.

Sec. 8. Compensation of officers and employees of city. The board of finance shall fix the compensation of all officers and employees of the city whose compensation is not herein fixed or otherwise provided for.

Sec. 9. Notice of meetings. Notice of the time and place of all meetings of the city council and of all city boards and commissions shall be kept conspicuously posted in the office of the city clerk.

Sec. 10. Review and alteration of ward lines. It shall be the duty of the city council each 10th year commencing with the census year 1950 to review, and if needful to alter, the ward lines in such manner as to preserve as nearly as may be an equal number of voters in each ward.

Sec. 11. No city employee to have interest in any contract entered into by or for city. No member of the city council, no subordinate city officer, no member of any board or commission charged with the expenditure of any money appropriated by the city council or belonging to the city, no officer or employee of the city, elected or appointed, shall be interested in any contract entered into by or in behalf of the city for labor or material,

or the purchase thereof, to be performed for or furnished to the city, and any contract made in violation hereof shall be void.

Sec. 12. Ordinances; filing of bonds. The municipal officers of the city of Lewiston are hereby authorized to enact ordinances regulating the following classes of persons, businesses, and purposes and may authorize the city clerk of said city to grant licenses and permits therefor for such periods of time and in accordance with such rules and regulations not inconsistent with law, and upon payment by the licensee of such fees, and filing of such bonds as said municipal officers may establish and make provisions for by ordinance, to wit: Auctioneers, the maintenance and operation of garages, filling stations, sidewalk tanks and pumps for the sale or distribution of gasoline and other volatile inflammable liquids for fuel or power, the manufacture, storage, sale, transportation, disposition and use of explosives and flammable liquids, billiard tables, pool tables, bowling alleys, roller skating rinks, junk dealers, dealers in second-hand parts and salvage of automobiles, dealers in second-hand merchandise, hawkers and peddlers, employment agencies, itinerant vendors, public automobiles, taxicabs and motor busses, public wagons and trucks, amusements, exhibitions and performances, theaters, moving picture houses, inns, victualers, pawn brokers, lodging houses of ten lodging rooms or more, public shooting galleries, the manufacture, storage, sale, disposition and use of fireworks, dance halls, circuses, and the erection and maintenance of signs, flags, banners, awnings, marquees and all other things within the limits of the sidewalks, roads, ways and streets of said city, and no such objects placed within said limits in accordance with such ordinances shall be deemed defects in such sidewalks, roads, ways and streets. The municipal officers may by ordinance assign the duty of approving the issuing of licenses to appropriate city departments.

Sec. 13. Monthly meeting open to public; records. The city council, the board of finance, and the several departmental boards and commissions shall hold one regular monthly meeting which shall be open to the public and at which any citizen of the city shall have reasonable opportunity to be heard in regard to any matter being considered thereat. The addition of any new service or the discontinuance of any established service may be authorized only at such regular meeting. All their records shall at all reasonable times be open to the public.

Sec. 14. Termination of terms of office. Except as otherwise herein provided, when this charter takes effect, upon the original election or appointment of all boards, commissions, committees, and officers herein pro-

vided for, the terms of office of the then corresponding existing boards, commissions, committees and officers and of all boards, commissions, committees and officers having corresponding duties shall terminate.

Sec. 15. Fiscal year. The fiscal year of the city shall commence on the 1st day of April and end on the 31st day of March of each year.

Sec. 16. Certain ordinances to remain in effect. All ordinances in force at the time when this charter takes effect, and not inconsistent with the provisions thereof shall continue in force until amended or repealed.

Sec. 17. Acts repealed. All acts and parts of acts relating to the city of Lewiston inconsistent with the provisions of this charter are hereby repealed.

Sec. 18. Referendum. This act shall be submitted for approval or rejection to the qualified voters of the city of Lewiston at the annual municipal election to be held on the 1st Monday in March, A. D. 1939 and the warrant for such election shall be varied accordingly.

The ballot shall be in form substantially as follows:

Official Ballot
Adoption of New City Charter

QUESTION

Shall the act entitled "An Act to Grant a New Charter to the City of Lewiston" passed by the 89th Legislature be adopted?"

Yes
No

Place a cross in the square indicating your choice.

(Facsimile signature)

.....
City Clerk.

If a majority of the valid ballots shall be marked in the affirmative, then this act shall take effect and the mayor shall forthwith make proclamation thereof.

Emergency clause. In view of the emergency recited in the preamble hereof, so much of this act as authorizes the submission of this charter to the voters of the city of Lewiston for their acceptance shall take effect when it is approved but its other and further provisions shall have and be of no effect unless in accordance with the foregoing provision authorizing said submission.