

# MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND EIGHTH LEGISLATURE

## COMMITTEE ON LEGAL AFFAIRS

February 17, 1978

Rep. John L. Martin, Chairman  
 Legislative Council  
 c/o The Speaker's Office  
 State House  
 Augusta, Maine 04333

Re: H.P. 1198

Dear Speaker Martin:

The Joint Standing Committee on Legal Affairs, of the 108th Legislature was directed, through H.P. 1198, a Joint Order, to study the incorporation of religious institutions by Private and Special Acts. A copy of the study order is attached. After due deliberation the Committee has decided that no legislative action is needed at this time.

Prior to the enactment of General Corporation Laws, all corporations were formed by Private and Special Acts. However, in 1876, the 14th Amendment to the Maine Constitution was enacted providing that:

"Corporations shall be formed under general laws and shall not created by special Acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained, and, however formed, they can be forever subject to the general laws of the State."

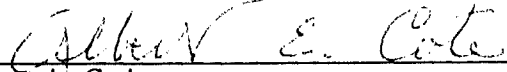
Court decisions interpreting that section have declared that its effect is not retroactive. Thus, those religious institutions which were incorporated prior to 1876 are not regulated by the general corporation laws. Changes in the purposes of any corporation organized prior to 1876 may be altered through the Legislature. If a corporation organized prior to 1876 wishes to avoid the legislative hassle, it may incorporate under the present law of Maine and from thenceforth effectuate changes in its corporate structure without requiring legislative action. Hence, no legislative action need be taken relative to the incorporation of religious institutions.

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Very truly yours,



Richard Hewes  
Senate Chairman



Albert Cote  
House Chairman

enclosure  
JRS/sym

STATE OF MAINE

In House

S. D. OF R.

~~Ordered~~

Whereas, several religious institutions were chartered in Maine by private and special laws prior to any general statutory provisions to charter nonprofit or nonstock corporations; and

Whereas, any revisions in the charters of these various religious institutions require separate legislative action; and

Whereas, the current public laws provide adequate and minimal necessary state involvement in the affairs of religious institutions; and

Whereas, the separation of church and state is a long-established constitutional principal and a long-cherished tradition with the people of Maine; now, therefore, be it

Ordered, the Senate concurring, that the Joint Standing Committee on Legal Affairs study the significant variations between the incorporation of religious institutions by private and special laws and incorporation of religious institutions by public laws dealing exclusively with specific religious institutions and evaluate the extent and necessity of government involvement in the affairs of the religious institutions incorporated by private and special laws versus public laws; and be it further

Ordered, that the committee report its findings along with accompanying legislation to the Legislative Council no later than December 1, 1977.

HOUSE OF REPRESENTATIVES

READ AND PASSED

APR 4 1977

SENT UP FOR CONCURRENCE

IN SENATE CHAMBER  
READ BY CLERK  
OF THE SENATE

APR 5 1977

HP 1198

(Greenlaw)

Name:

Lawrence P. Greenlaw, Jr.

CLERK

FILED

*Boyer*

Town: Stonington