

# MAINE STATE LEGISLATURE

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**First Report  
of the  
Legislative Research Committee  
of the  
91st Legislature**

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**Fire Prevention and Public Safety**

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*Introduction*

The Legislative Research Committee for the 90th Legislature had its attention called to numerous obsolete and outmoded sections of Chapter 35 of the Revised Statutes of 1930, and in the relatively short time which the committee had to consider the problem, some study was made looking to a possible revision. A report on this subject matter appears on pages 40 and 41 of the final report of that committee given under date of December 1, 1942.

Pursuant to its report, that committee presented to the 91st Legislature L. D. No. 88, which offered a correction of some of the more obvious defects and which served the purpose of directing the attention of the Legislature to the real need for corrective legislation. In the interim, however, and before the Legislature convened, there occurred in Boston, Massachusetts the Cocoanut Grove disaster, which had the effect of startling legislative bodies in all states into a full realization of the dangers inherent in their incomplete and unsatisfactory safety laws. The 91st Legislature very properly referred L. D. 88 to this Legislative Research Committee for further study and recommendations covering all the aspects of adequate fire and safety laws.

There was also presented to the 91st Legislature L. D. 744, which was sponsored by the Association of Maine Fire Chiefs and which called for the creation of the office of State Fire Marshal. This bill is admitted by its sponsors to have been prepared without any particular research into the fundamental problems involved, and the bill, in fact, did little more than to substitute a new officer, to be known

as the State Fire Marshal, for the Commissioner of Insurance authorized by the present law, which was otherwise retained intact. This bill was referred to the 92nd Legislature and is important only as it represented the considered view of those closest to the fire problem, that there was a real need in this state for some form of State Fire Marshal set-up.

This committee determined upon a thorough study and revision of the fire and safety laws as its first major objective and has made a very careful study of the entire subject.

### **Sources**

The committee first contacted the National Fire Protective Association, which maintains an office in Boston, Massachusetts and which has available a great deal of the necessary source material as well as experts whose knowledge and assistance have been extremely helpful to the committee.

The committee, through its attorney, organized a group of representative Maine fire chiefs, with Chief Curtis Allen, of Sanford, acting as chairman, and these gentlemen were kind enough carefully to review all of the proposals as they were made and to offer their suggestions and criticisms with a view to keeping possible legislation in tune with the particular problems of the State of Maine. In rendering this voluntary help, they performed a valuable public service to the State of Maine.

The interests of the towns and their municipal officers were represented by the staff of the Maine Municipal Association, who were in a position to estimate the impact of any proposals upon the towns and particularly upon the smaller communities. The Commissioner of Education, the Forest Commissioner, and other department heads were consulted as to those proposals which might affect the work of their respective departments. Representatives of various interests whose business or operations might be regulated or otherwise affected were consulted, and, without exception, the committee had the fullest cooperation from citizens and officials alike.

The committee's real objective was to prepare a law which would be modern in its scope, which would conform to the legislative standards adopted by the more progressive states, which would eliminate in advance as many as possible of the features likely to be

vexatious and objectionable to persons or businesses affected and which might thus be considered by the 92nd Legislature with a minimum of controversy and argument.

### **State Fire Marshal**

So many states have set up a State Fire Marshal that there is little opportunity for the argument that such a step is not desirable or necessary. The real problem which presents itself is as to whether there should be a new department or bureau established or the functions of a State Fire Marshal should be given to an existing department. On this the states are about evenly divided and there is ample precedent for the plan which your committee suggests.

In deciding this question, it must be remembered that the State of Maine has no densely populated centers and the problems to be solved are largely those of a rural and agricultural state with its numerous small towns and villages rather than those of large metropolitan areas. It must also be remembered that the creation of any new department or bureau contains the seeds of economic danger, for experience in government has demonstrated clearly that once a new department is created there exists in that department a natural desire for growth and expansion. The appropriation the first year may be \$5000, but two years later the request is for two or three times as much, and, before many years have passed, the department has become honestly convinced that its contributions to the welfare of the state are as great as those of any other department, and it is seeking an equality in spending power. There is then at least the hope that if the new functions and duties can be given to a department which has been long established and which has already acquired departmental dignity, the urge to grow and expand beyond all anticipated bounds may not be quite as strong. The committee has concluded, and seems to be supported by its many advisors in concluding that the problem in the State of Maine can be best and most economically solved by lodging the functions and duties of a state fire marshal in the insurance department. Some of the functions which would normally belong to a state fire marshal have in the past been exercised by the insurance department with reasonable efficiency. The committee is convinced that where in the past there has been any lack of success, the fault has been entirely that of the administer-

ing personnel, and it may be said that this would be true in a new department as well as in an established one in any case where a subordinate was permitted to become over-officious or to go beyond reasonable bounds. The committee is satisfied that the insurance department is as well aware of this problem as is the committee itself, and sincerely believes that, with the addition of the safeguards which the committee is incorporating in its proposals, maladministration in the future will be at an absolute minimum.

Specifically, then, the committee proposes to constitute the Commissioner of Insurance ex officio state fire marshal, and to create for his assistance two additional deputies, the second deputy to supervise and direct the investigation of fire, explosion, and structural collapse, and to prosecute arson and other violations of law connected with such incidents; the third deputy to serve as deputy state fire marshal, supervising safety inspection work, fire prevention, fire schools and the like. The work of the second deputy will be closely akin to police work, whereas the third deputy will require the attributes of a good public relations man who is well grounded in problems of fire and safety.

### **Regulations**

Any study of the present laws of the State of Maine leads the student inevitably to the conclusion that many of these laws are old-fashioned, out-of-date, or obsolete, and that the statutes are cluttered with detailed regulatory specifications and other material which is hard to locate, difficult to interpret and impracticable to enforce. It is apparent that much of this material should find its place in detailed specific regulations rather than among the general laws of the state. The committee proposes, therefore, to confer upon the state fire marshal authority to promulgate regulations to provide for the general safety with relation to such subjects as public buildings, places of public assemblage, explosives and the like. These regulations, when finally promulgated through mechanics carefully designed to safeguard the public, will have the force of law and will have the desired effect of establishing certain uniform minimum standards for the whole State of Maine which will be clear and precise.

## **Board of Public Safety**

The first safeguard to protect the public from over-regulation will be the creation of a board of public safety, to be appointed by the Governor and Council. It is proposed that there be five members, who will be respectively an architect, a building contractor, an insurance engineer, a fire department officer, and a real estate man. Each will serve for five years, and it is contemplated that they will represent the public in seeing to it that while the public safety is reasonably and adequately protected, the regulations promulgated are not impracticable nor unduly burdensome from the point of view of those who have to comply with them. They will serve in effect as a check and balance upon the state fire marshal, with full power of veto as to regulations proposed by him. They will also render assistance in an advisory capacity and will hear appeals in cases where complaints of undue hardship or distress arise.

## **Regulatory Method**

Although the regulations will be officially promulgated by the state fire marshal, it is contemplated, as a matter of practice, that the deputy state fire marshal will engage in the necessary research study which will tend to result in good, clear, workable regulations. It is anticipated that he will seek the assistance of such expert groups as the National Fire Protective Association, the Association of Maine Fire Chiefs, and others who may be in a position to make valuable suggestions. The regulations when drawn up will be presented to the board and studied, and after being revised into a form which both the state fire marshal and the board can approve, they will be submitted to the public through the medium of a public hearing, which will be adequately advertised. When the regulations have been further revised in the light of suggestions made by the public, they will be finally approved, filed with the Secretary of State, published, and a copy sent to each town, whereupon they will have the force of law.

It is interesting to note in this connection that the petroleum industry in Maine has been operating for several years under regulations promulgated by the Insurance Department under present legislation, and there is every indication that the results have been extremely satisfactory to the industry, to the department and to the

public. There is precedent, therefore, to sustain the belief that such a method, with the extensions contemplated, can work well in the State of Maine.

### **Finance**

It is logical to suppose that such an extension of the safety program in this state will inevitably result in some additional expense, but it is not too sanguine to hope and believe that there will be a net saving rather than a net expenditure to the people of the State of Maine. Every fire and every disaster take their toll in loss of property, loss of taxes, in bodily injury or loss of life, as well as in losses to fire and casualty companies with possible resulting increase in premium rates. Any program which serves substantially to curtail this waste insures economic benefits to the people of the State of Maine.

Specifically, it appears that the program can be carried, at least through the experimental period of the first two years of its life, without additional appropriation or increase in tax rate. The present  $1/2$  of 1 per cent tax on fire premiums, often referred to as the "fire marshal tax," may now be used only for arson investigation. A surplus has gradually been accumulated large enough to permit the commissioner, under the authorization contained in the law, to omit the tax for the year 1943. It is proposed, therefore, to broaden somewhat the purposes for which this tax money may be expended to include the fire prevention and safety program but not to increase the rate of the tax. It is reasonable to believe that the fire companies will not seriously oppose this proposal, for they are well aware that they stand to gain financially by the potential reduction in losses attributable to a sound prevention and safety program. Future legislatures can study the practical results of the program and determine for themselves the wisdom or necessity of increasing the rate or supplementing the tax by additional appropriation if and when requests for additional funds are made.

### **Local Self-government**

Probably no state has more firmly adhered to the principle of local autonomy than the State of Maine. Your committee believes that the people of the state by and large want the state to refrain from



interfering with any town which can demonstrate its efficiency as a governmental unit by enacting adequate local laws and by adequately enforcing them. This principle finds expression in your committee's proposal. Towns are given broad powers to regulate the same subject matter as is subject to state regulation as long as the local regulations are at least as strict as those of the state. One or two matters, such as the examination and licensing of operators of commercial motion picture projectors, and the transportation of petroleum products, seem to lend themselves better to uniform state control and are reserved exclusively to the state, to avoid confusion of varying local laws, but, for the most part, the towns are left free to regulate. It is believed that the towns will be assisted by the minimum standards incorporated in the state regulations, and, in many instances, they may find it advisable to enact the state regulations as local law, thereby saving the town the time and expense of research study which will be necessary for setting up sound, workable standards. These town laws, when they are enacted, will be filed with the commissioner and certified by him as being at least as strict as the state regulations, whereupon the local law will be the applicable law in that town. Adequate machinery is set up for determining any dispute between the town and the state as to whether the town laws meet all the requirements, and an appeal to the courts is provided if the dispute is not otherwise resolved.

### **Enforcement**

Local officials are charged with the duty of enforcing the town regulations, or, if there be no town regulations, then the state regulations. The state department may be invited by the local officials to assist in dealing with a particular situation involving enforcement, but the state will not take over enforcement in any town unless enforcement in that town breaks down, and then only after notice to the town and a reasonable opportunity to rectify the situation.

The appointment of fire and building inspectors in towns is carefully provided for and their duties are prescribed. Municipal officers who fail to provide fire and building inspectors (who, in smaller communities, may be, if desired, one and the same person) will find themselves charged with the powers and duties of fire and building inspectors. This may provide an incentive to them to attend to the duty of making these appointments, and will also serve to prevent any

vacuum in the obligation of enforcement. There will at all times be someone in every town who is charged with these duties, upon whom responsibility can be placed. Inspections of public buildings, places of public assemblage, new construction, and sundry fire hazards are provided for. The method of giving orders for the correction of hazardous conditions is clearly set out. Penalties for non-compliance are provided, and full power is given to local officials to abate dangerous conditions. On the other hand, the rights of the owner who deems himself aggrieved are protected by appeal with ultimate resort to the courts. Experience in all types of law enforcement has clearly demonstrated that where adequate power is given to the enforcing officer and a clear, concise method of procedure is set up, it seldom becomes necessary for the enforcing officer to resort to the legal means at his disposal, and most situations are easily and quickly resolved by cooperation and agreement as between the offender and the enforcing officer.

### **Electrical Installations**

Among the most common causes of fires are careless smoking, faulty chimneys and flues, chemicals and waste improperly maintained, and faulty electric wiring. A substantial improvement with respect to all of these may reasonably be contemplated as a result of these proposals, and in particular with respect to electrical work, "something new has been added." Maine is one of the few states which has no sort of electrical code or control over electrical work, and there has, therefore, been left untouched one of the most common causes of bad fires. The field of electrical installation and repair work is conceded by all informed persons to be a specialty. Everyone admits that it is unwise to permit even the most skillful carpenter or barber to perform an appendectomy, yet here the life of only one patient is at stake. How much more serious is it to permit an untrained and unskilled person to install electrical wiring, often concealed, thereby possibly imperiling the lives of many persons when the building, and perhaps adjacent buildings, burns as a result! Yet this hazard has been accepted and winked at everywhere in the state and thousands of dollars worth of property have already been destroyed as a result. Suitable regulations for electrical work seem to your committee an absolute necessity to round out any adequate program of safety, and provisions for such regulations have been included in the proposals.

## **Fire Departments**

An effort has been made to express the law with regard to local fire departments realistically and in terms which recognize the problems of modern fire-fighting. An examination of the present laws on the subject convinces the reader that they were enacted when engines were drawn by manpower and have never since been changed or modernized.

We find two types of fire-fighting units in Maine: the organized municipal department and the voluntary association. Your committee has recognized the situation that exists and has authorized the continuance of such departments. The proposals determine where control should be vested in case of jurisdictional disputes, and have sought to clarify any possible question of authority which might arise in a particular case involving demolition of buildings during a fire. Most towns have failed to appoint fire wards, and the committee proposes that this ancient and honorable (?) office be abolished.

It has been found that there is need among the smaller communities for union fire departments, and these are authorized and the machinery for their creation, management and control is set up along lines analogous to union school districts. The practice of lending aid by one town to another is also quite common in the State of Maine but finds no authorization in the law. With few towns maintaining departments large enough in themselves to control a large conflagration, it is apparent that such mutual aid is a real necessity in this state and authorization for it is therefore established and the mechanics set up.

## **Forest Fires**

An effort has been made to condense and consolidate the laws relating to the control and investigation of forest fires and the disposal of slash and debris. No changes of fundamental policy have been made, but some effort has been made to change the detail of the law so as to conform with accepted practice.

## **Legal and Illegal Fires**

The present law is vague and confusing as to when, if ever, or where one may lawfully kindle a fire. For example, there is no

clear expression in the law which permits a Maine guide to kindle a fire. The result is that the present fire laws are violated constantly by well-meaning citizens, and there has necessarily resulted a type of discretionary enforcement, which, from a governmental point of view, is extremely unhealthy. In general, it can probably be said that legislation which is so socially impracticable and so repugnant to the general public that enforcing officers must necessarily wink at violations had best be repealed, and the sooner the better.

The committee has tried to make a thoughtful study of this problem and has obtained the opinions and suggestions of the Commissioner of Fish and Game, the Forest Commissioner and his wardens, of fire chiefs, of wild land owners and others who are called upon to deal with this problem day by day, and has endeavored to write a law which is realistic and which can literally and practically be enforced by the officers charged with that responsibility. While on the one hand the committee has extended the places and conditions under which fires may lawfully be kindled, it has also added safeguards by extending the permit system.

Every autumn and every spring our fire departments are kept fully occupied extinguishing grass fires and the like which have gotten out of hand because they were kindled in an improper place or under improper conditions. This is an unnecessary waste of time and equipment, and in far too many cases departments have been dispersed on account of such fires to an extent which has impaired their efficiency and rendered it impossible quickly to respond to a serious fire. Communities which have used a permit system as to fires other than those kindled in fire places, incinerators, or other suitable containers have found the results to be excellent. Fires which would otherwise have been kindled in a high wind have been avoided, and the necessity of obtaining a permit from the fire department, even though only a telephone call might be involved, has caused people to think in terms of reasonable precaution. The extension of the permit system is strongly advocated by our fire chiefs, and has been deemed by the committee to be a suggestion well worth incorporating in the proposed law.

### **Burnt and Dilapidated Buildings**

The existence in a community of a building which has been badly burnt or otherwise partially destroyed and yet still stands as a con-

stant source of danger to children and passers-by has long presented a real problem to municipalities. Some machinery is now to be found in the law empowering towns to demolish such dangerous structures, but that machinery is obviously inadequate and possibly unconstitutional, and municipalities which have acted under it have done so reluctantly and with considerable fear of the consequences.

Another procedure which the Commissioner of Insurance may follow is also found in the law, but this also is unsatisfactory and incomplete. Your committee has attempted to set up complete machinery which may be followed step by step to compel such structures either to be restored to a condition of safety or demolished. The rights of the owner have been considered and carefully safeguarded, and an appeal to the courts has been added for his protection, so that there should be no longer much doubt as to the constitutionality of the procedure. The experience of the past has been that owners for the most part have refused to do anything because of the expense involved, and far too many such dangerous structures have been allowed to remain as they were because of the confusion in the law. Your committee believes that under its proposals, it should not be difficult for local officials to follow the law step by step and accomplish the desired result, and it may also be reasonably hoped that owners when confronted with such complete authority and detailed procedure will yield to the force of the law and either repair or demolish rather than subject themselves to a fine or a possible special tax for the expense otherwise entailed.

### **Conclusion**

Your committee has prepared for presentation to the 92nd Legislature an act incorporating these proposals together with numerous other minor changes in the law, a copy of which is appended to this report. This act was redrafted and revised several times before being submitted to the public at a hearing held in the Senate Chamber on September 30, 1943. This hearing was well attended, and numerous valuable suggestions and criticisms were offered by those present. Mr. Charles S. Morgan, of the National Fire Protective Association, was present at the request of the committee, and indicated the present trends in this type of safety legislation. Mr. Morgan stated that the proposed law very definitely conformed to the trend of legislation in our most progressive and forward-looking

states. His advice and assistance to the committee during the progress of its work and his participation at this hearing are greatly appreciated.

The proposed law, if enacted, will repeal all of Chapter 35 of the Revised Statutes and numerous other separate acts scattered through the general law. Although adding a substantial amount of new subject matter, the proposed law will, nevertheless, be considerably more brief and concise than the law which is repealed. The actual repeal section cannot be completed until the revision of the statutes has been presented, as it is assumed that chapters and section numbers will all be changed by the revision.

Your committee seriously hopes that all members of the Legislature, and particularly those who may return as members of the 92nd Legislature, will give careful study to the proposed law and the purposes which it is intended to accomplish.

### **Towns Regulating Dance Halls**

Your committee believes that the best practice with relation to regulation by towns is to enable municipalities to regulate by ordinance or by-law rather than by vote of the municipal officers, and therefore, without disturbing the essential purpose of Chapter 265 of the Public Laws of 1931, it is offering a proposed amendment to make municipal licensing of dance halls conform in that respect.

### **AN ACT TO REVISE THE FIRE AND SAFETY LAWS**

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

**Sec. 1. Definitions.** The word "town" as used in this act shall, in all cases, include cities, towns, organized plantations and village corporations.

The municipal officers of plantations and village corporations as referred to in this act shall be deemed to be the assessors thereof.

The county commissioners shall have the powers and duties of municipal officers for the purposes of this act in the unorganized territory.

The word "commissioner" as used in this act, unless otherwise expressly stated, shall mean the commissioner of insurance.

The word "board" as used in this act shall, unless otherwise expressly stated, mean the board of public safety.

The words "public buildings" as used in this act shall include all buildings to which the public has a normal and recognized freedom of access, whether or not upon the payment of any entrance fee, and shall include factories, tenements, apartment houses housing more than two families, lodging houses, hotels, hospitals, convalescent homes, theaters and dance halls.

The words "places of public assemblage" as used in this act shall mean rooms or spaces which are used for the congregation or gathering of 100 or more persons for religious, recreational, educational, political, social or amusement purposes or for the consumption of food or drink. For the purpose of this definition, such rooms or spaces shall include any occupied connecting rooms or spaces in the same story or in stories above or below, where entrance is common to the rooms or spaces.

The word "population" as used in this act shall mean the population of the governmental unit referred to according to the most recent federal census.

**Sec. 2. Commissioner of Insurance ex officio State Fire Marshal: duties.** The commissioner of insurance is hereby constituted ex officio state fire marshal. It shall be the duty of the state fire marshal to supervise and direct the inspection of buildings to ascertain their structural safety and the presence of fire hazards as hereinafter provided; to furnish information and assistance to municipal officers, fire inspectors and building inspectors; to make or cause to be made studies of the causes of fire and modern developments in fire-fighting and fire prevention; to organize and promote schools and conferences for the instruction and assistance of fire department personnel and other municipal officers and employees who may be charged with responsibility for public safety; to make such investigations as may be necessary to ascertain the causes and results of fires, panics, and structural deficiencies in buildings resulting in loss of life or property; to gather, record and disseminate general and statistical information in connection therewith, and to supervise and direct the enforcement of this act and the regulations promulgated thereunder.

**Sec. 3. Second and third deputies provided for: duties.** The commissioner shall, in accordance with the provisions of Chapter 221 of the Public Laws of 1937, appoint or remove, in addition to the deputy provided for by section 83 of chapter 60 of the Revised Statutes, a

second and/or third deputy, who shall respectively exercise the powers and duties hereinafter prescribed.

The second deputy shall be known as the chief of arson investigation. It shall be his duty to supervise and direct the investigation of all fires, panics, and incidents of structural collapse resulting in serious personal injury or death or concerning which there is reason to suspect that such fire or incident has resulted from a violation of law. He shall supervise and direct the accumulation of evidence in connection therewith, and upon receipt of evidence indicating that any person has violated any law or any regulation promulgated by the commissioner, he shall cause such evidence to be presented to the county attorney in the county where such alleged violation occurred and shall render all necessary assistance to the county authorities in the prosecution of such violation. He shall perform such other duties as the commissioner may from time to time direct.

The third deputy shall be known as the deputy state fire marshal. He shall be a person who has knowledge and experience in connection with fire prevention and building inspection. It shall be his duty, under the direction of the commissioner, to supervise and direct the inspection of buildings for fire hazards, structural defects and hazards involving public safety; to develop and improve the methods of fire prevention in the state; to assist the commissioner in the promulgation of regulations; to furnish information to and promote fire schools for the several municipal fire departments of the state, and to perform such other duties as the commissioner may from time to time direct. He shall act in the place of the commissioner in all matters relating to fire prevention and building inspection in event of the latter's absence or incapacity.

**Sec. 4. Board of Public Safety; qualification and appointment: meetings: compensation: duties.** There is hereby constituted a board of public safety, which board shall consist of five citizens of the State of Maine, one of whom shall be an architect, one a building contractor, one an insurance engineer, one a person having had at least five years' experience as an officer of an organized fire department, and one a person experienced in the management of commercial real estate. Each of such members shall be appointed by the governor, with the advice and consent of the council, for a term of five years, except that at the time of first appointment of such board one member shall be appointed for five years, one member for four years, one member for



three years, one member for two years, and one member for one year, so that thereafter one member will be appointed annually for a term of five years. The board shall meet at the call of the commissioner, who shall preside over its deliberations. The deputy state fire marshal shall act for the commissioner in his absence. Notice of the time and place of any meeting of the board shall be given to each member of the board by mail, posted at least one week prior to the date of such meeting and addressed to the last-known address of such member. Such notice shall contain brief agenda of the business to be transacted at such meeting. Each member shall receive the sum of ten dollars per day for the time devoted to hearings and meetings, including the time necessary for travel to and from the place thereof, together with the necessary expenses of travel, lodging and meals incident thereto. Any meeting of the board at which the commissioner or his said deputy and three or more members of the board are present shall be deemed to have a quorum necessary for the transaction of business. It shall be the duty of the board to consider all problems relating to fire prevention and public safety; to render advisory opinions to the commissioner in connection therewith; to assist the commissioner and his said deputy in the study of improvements in methods of fire prevention and public safety; to assist in the accumulation and dissemination of information of fire prevention and public safety in the state; to approve regulations in connection therewith promulgated by the commissioner as hereinafter provided; to hear appeals; and to perform such other duties as may be provided by law.

**Sec. 5. State fire inspectors: fire marshal premium tax: purposes: tax omitted when.** The commissioner may employ such persons as state fire inspectors and may incur such expense as may be necessary to the performance of his duties in investigating or causing to be investigated the origin of fires and the inspection of buildings and property. The commissioner shall collect from every fire insurance company or association which does business or collects premiums or assessments in the state on the 1st day of May, annually, in addition to the taxes now imposed by law to be paid by such companies or associations,  $\frac{1}{2}$  of 1% of the gross direct premiums for fire risks written in the state during the preceding calendar year, less the amount of direct return premiums thereon and all dividends paid to policyholders on direct fire premiums during said calendar year.

Such funds shall be used to defray the expense of such investigations and inspections, the expense of the Board of Public Safety, and the expenses properly incurred by the commissioner in his capacity as state fire marshal, and they are hereby appropriated for such purposes. Whenever there shall accumulate in the special fund created by this section a surplus sufficient to defray such expenses for the ensuing period of one year, then in the discretion of the commissioner the foregoing special tax for that year may be omitted.

**Sec. 6. Commissioner to promulgate regulations: subjects regulated: licenses and permits: fees: limitation by population.** The commissioner shall, from time to time, promulgate regulations to provide for the safety of persons and property from injury or damage by fire, explosion, structural collapse or panic, with relation to the following subjects: (a) construction of all new buildings and additions to or alterations of existing buildings; (b) all existing public buildings; (c) all places of public assemblage; (d) all school buildings, including provisions for compulsory fire drills (such regulations to be first submitted to the Commissioner of Education for suggestion and recommendation); (e) the use, transportation, storage and care of dynamite, gunpowder, petroleum products and other like explosives, flammable liquids and illuminating substances, including provisions for the qualifications of the persons transporting such substances; provided, however, that such regulations shall not apply to the transportation, storage and care of such commodities or substances when being handled by railroad corporations in accordance with rules and regulations prescribed by the interstate commerce commission; (f) the operation of commercial motion picture projectors; (g) all electrical installations (except 1. minor repair work, replacements of lamps and the connection of portable devices to suitable receptacles which have been permanently installed. 2. the work of any company incorporated for transmission of intelligence by electricity in installing, maintaining and repairing wires, conduits, apparatus, fixtures or other appliances used by such company and necessary for or incident to its business, whether or not such wires, conduits, apparatus, fixtures or other appliances are on its own premises. 3. the installation, alteration or repair of electric wiring for the generation and primary distribution of electric current, or the secondary distribution up to and including the meters, where such work is an integral part of the system owned or operated by an electric

light or power company in rendering its duly authorized service. 4. any work involved in the manufacture, test or repair of electrical apparatus, appliances or equipment in the manufacturer's plant but not including any permanent wiring other than that required for testing purposes. 5. any work in or about the premises or plant of an established transportation, industrial or manufacturing concern, performed under the supervision and direction of its regularly employed professional engineer or engineers, who is or are duly registered as such under the provisions of Public Laws of 1935, Chapter 189); (h) the sale, storage, display and use of fireworks and the like, including provisions for posting of bonds with towns by persons contracting for public displays of fireworks.

Except as to general office buildings regulations involving subdivisions (a) and (b) of this section shall not apply to buildings owned or controlled by railroad corporations and used for railroad purposes; authority is hereby given to the public utilities commission to prescribe regulations, in respect of such buildings, to provide for the safety of persons and property from injury or damage by fire, explosion, structural collapse or panic, as a part of its general jurisdiction over railroads operating in this state, but in prescribing such regulations said commission shall give due consideration to regulations issued by the commissioner and approved by the board or issued by towns and certified by the commissioner and the board, and it may require compliance, in whole or in part, with such regulations.

Such regulations may provide for the licensing of theaters and dance halls and for the annual collection of fees for such licenses. Such fees shall not exceed ten dollars each per year, and the proceeds therefrom shall be retained by the commissioner to defray the expense of inspections and the enforcement of such regulations. Such state licenses shall not be issued in towns which issue town licenses in accordance with the provisions of sections 10 and 11 of this act.

Such regulations shall provide for the examination and licensing of electricians and for the annual collection of fees for such licenses. Such fees shall not exceed \$5 each per year, and the proceeds therefrom shall be retained by the commissioner to defray the cost of such examinations and licensing. Such regulations shall provide for the issuance of limited licenses upon which shall be clearly stated the limited type and character of electrical work which the applicant is licensed to perform. The examination and licensing of electricians

shall be a function exclusively of the commissioner and the board and not a function of towns. Such regulations shall prescribe the conditions under which apprentices may be employed.

Such regulations may provide for the issuing of permits for the transportation of the substances enumerated in subsection e. of this section, and for the collection of fees for such permits. Such fees shall not exceed \$1 each and the proceeds therefrom shall be retained by the commissioner to defray the expenses of inspection and issuance of such permits.

Such regulations shall prescribe the qualifications of commercial operators of motion picture projectors, and provide for their examination and licensing, and for the collection of fees for such licenses. Such fees shall not exceed \$5 each per year, and the proceeds thereof shall be retained by the commissioner to defray the expense of such examination and licensing. Examination and licensing of such operators shall be a function exclusively of the commissioner and the board and not a function of towns.

Any regulations or parts thereof promulgated under the provisions of this section may be expressly limited so as to apply to municipalities having not over a designated population, and, in the same manner, may be so limited as to apply to municipalities having not less than a designated population, where the conditions thereby controlled are not general in all municipalities and where a regulation covering all municipalities would work undue hardship and distress upon some.

**Sec. 7. Method of promulgating regulations; submission to the board: public hearing: notice: certified copy to secretary of state: publication: copies to towns: altering, amending or rescinding.** Regulations shall be promulgated by the commissioner and the board in the following manner. They shall be first submitted in writing to the board at least one week before they are to be acted upon. They shall thereafter be considered at a regularly called meeting of the board and shall be void unless approved by at least three members of the board. The commissioner shall thereafter, with the approval of the board, fix the time and place of a public hearing, at which the public shall have opportunity to be heard for or against such regulations or any provisions thereof. Notice of such hearing shall be given by publication in at least three daily newspapers published in the State of Maine, at least 30 days prior to such hearing, and such

regulations shall be published as part of such notice, provided however that if such proposed regulations exceed thirty sections, the commissioner may, in his discretion, publish only the section numbers and the title and heading of each section. Copies of such proposed regulations shall also be made available to interested citizens, but the commissioner shall collect a fee for such copies commensurate with the cost of their preparation. Such hearing shall be held before the board and shall be presided over by the commissioner, or, in his absence, by the deputy state fire marshal. The commissioner shall thereafter, with the approval of the board, redraft the regulations, making such alterations as, in the light of the hearing, they may deem proper, and such redrafted regulations shall then be finally approved. The commissioner shall then forthwith file a copy thereof, certified by him, with the Secretary of State, whereupon such regulations shall become effective and shall be enforceable in the same manner as other laws. The commissioner shall cause such regulations as finally approved to be published in the state paper and shall forward a copy thereof to each town. Such regulations may be altered, amended or rescinded in the same manner.

**Sec. 6. Penalties: violation of regulations: continuing violation: withholding school funds when: operation without license or permit: forfeiture of articles: person violating presumed negligent.** Any violation of the regulations promulgated by the commissioner and the board, except those relating to schools, shall be punishable by a fine of not exceeding \$500, or by imprisonment for not exceeding 90 days, or by both such fine and imprisonment, and, where such violation continues from day to day, such continuing violation shall be punishable by an additional fine of not exceeding \$25 for each day of such continuing violation.

Upon written notification by the commissioner that any school building does not meet the specifications in the state regulations applicable thereto, the superintending school committee of the town shall at once proceed to correct the defects, and any failure so to act shall render the town liable to the provisions of section 19 of chapter 19 of the Revised Statutes.

Any person who engages in any operation for which a license or permit is required by such regulations, without first obtaining the required license or permit, shall be punished by a fine of not exceeding \$100.

Any articles kept or transported in violation of such regulations may be seized by any peace officer and forfeited and within 20 days after such seizure may be libeled according to law.

Any person failing to comply with any applicable state or municipal regulations promulgated pursuant to this act, or failing to procure a permit or license where one is required by such state or municipal regulations, shall be presumed negligent in any action brought by any person who is injured in his person or property, but such presumption may be rebutted.

**Sec. 9. Exemption from regulations: undue hardship: petition to commissioner: petition by town: dismissed without hearing when: hearing: notice: appeal board, how constituted: decision: filing fee: appeal to superior court.** Any person who deems that the enforcement of any such regulations would work undue hardship and distress upon him and that variance would not derogate from the intent and force of such regulations, may file a written petition with the commissioner citing the regulation or regulations from the enforcement of which he seeks exemption and setting forth his claim of unusual circumstances or other matter which would cause undue hardship and distress. Any town may file a petition under similar circumstances with reference to property owned by such town. Such petition shall be considered by the board at a regularly called meeting thereof. Unless the commissioner, or in his absence, the deputy state fire marshal, after investigation, shall recommend, and the members of the board present at such meeting shall unanimously vote to dismiss such petition without hearing, the commissioner shall order a hearing thereon to be held in the town in which the building or property in question is located, at such time and place as the commissioner and the board shall designate, and notice thereof shall be given by letter to the petitioner and to the municipal officers of the town where such property is located, and by publishing the same in a newspaper published in the county where such property is located, or if no such newspaper, then in the state paper, all at least one week prior to the date of such hearing. The commissioner or his said deputy shall, with at least two members of the board, comprise an appeal board, and shall meet at the designated time and place, at which hearing all persons who so desire shall be heard for or against said petition. The appeal board shall thereafter render its decision, and shall either grant by unanimous vote the request of such petition

in whole or in part as may be deemed expedient, or deny the same. Every such petition, excepting those filed by towns, shall be accompanied by a fee of five dollars, which fee shall be returned to the petitioner if his petition be granted in whole or in part. In event any such petitioner shall deem himself aggrieved by the decision of the board, he may by petition take an appeal to the superior court. Any justice of said court, in term time or vacation, may, after hearing upon such notice as the court may order, make such order thereon as the court may deem necessary, which order shall finally determine the rights of the petitioner with respect to his said petition.

**Sec. 10. Regulations by towns: general authority: limitation as to explosives and fireworks: licenses and permits: fees: transportation routes for explosives: limitations on regulations of flammable liquids and petroleum products: provisions of section 136 to chapter 5 affirmed.** Any town may by ordinance or by-law regulate any of the same subject matter and license any of the same operations which may be regulated or licensed by the commissioner and the board under the authority granted in section 6 of this act except as expressly limited by the provisions of this act. Such town regulations may provide suitable penalties for any violations thereof, provided only that such penalties shall not be more severe than those provided by section 8 of this act.

Any town may regulate the transportation of only such explosives as may be transported to a terminus in such town. Any town may provide for the issuing of licenses for the storage, keeping, or sale of explosives or fireworks, and permits for such transportation, and may provide for the collection of fees therefor. Fees for such licenses shall not exceed \$2 each per year in a town having a population of not exceeding 50,000, and shall not exceed \$5.25 each per year in a town having a population of over 50,000. Fees for such permits shall not exceed 25 cents each. Any town having a population of 10,000 or over may by ordinance or by-law establish routes for the transportation of explosives through such town where the terminus point of transportation is outside such town, provided however that no permit shall be required by a town for the transportation of explosives from a point outside such town to a terminus outside such town.

Any town may by ordinance or by-law regulate the use, storage or sale of flammable liquids and petroleum products where used, stored

or sold in such town in quantities of not exceeding 3200 gallons (the use, storage or sale of larger quantities thereof and all transportation thereof being subject exclusively to state regulation).

Nothing in this act shall be construed as diminishing the authority of towns to enact regulations under the enabling acts contained in section 136 of chapter 5 of the revised statutes and amendments thereto, provided however that all such regulations and all regulations promulgated under the authority of this section shall be at least equal from the standpoint of safety to any state regulations promulgated upon the same subject matter; otherwise such state regulations shall be applicable in such town.

**Sec. 11. Certification town regulations applicable: copy of town regulations filed with the commissioner: certificate of applicability to issue: state regulations and enforcement not applicable to certified town when: notification to towns of insufficiency: state regulations and enforcement become applicable: appeal to superior or supreme judicial court.** Whenever a town has enacted ordinances or by-laws regulating any of the same subject matter as is governed by regulations promulgated by the commissioner under the authority in this chapter, such town shall forthwith file a copy thereof with the commissioner. If such ordinances or by-laws are found by the commissioner and the board to be at least equal from the standpoint of safety to the requirements of the state regulations, the commissioner shall forthwith issue to the town a certificate that such ordinances or by-laws are applicable in such town, and this decision shall be final unless and until the state regulations are changed to include more strict requirements than those found in such ordinances or by-laws. So long as such ordinances or by-laws remain, in the judgment of the commissioner and the board, at least equal from the standpoint of safety to the requirements of the state regulations and are found by the commissioner and the board to be adequately enforced, the regulations promulgated by the commissioner shall not be applicable to that town (unless otherwise specifically provided in the particular section authorizing such regulations), and neither the commissioner nor any of his subordinates shall take any action in the enforcement of any such ordinances, by-laws or state regulations in that town unless so requested in writing by the town official who is charged with the duty of enforcing the same or by the municipal officers of such town. In event the commissioner and the board shall receive



evidence and from such evidence shall determine that such ordinances or by-laws are not equal from the standpoint of safety to the requirements of the state regulations, or that they are not being adequately enforced in such town, then the commissioner shall notify the municipal officers in writing either of such insufficiency of the ordinances or by-laws as to safety, or of such inadequacy of enforcement, or both, and upon such notification the state regulations shall become applicable to such town and the commissioner shall take any necessary action adequately to enforce the same until such time as adequate enforcement thereof shall be provided by such town. Whenever the municipal officers of any town deem that such town is aggrieved by the action of the commissioner and the board in determining that any ordinances or by-laws are insufficient as to safety, or that the enforcement thereof is inadequate, such municipal officers may petition any justice of the superior or supreme judicial court in term time or vacation, who, after hearing upon such notice as such court shall order, shall determine whether such state regulations and enforcement shall apply in such town.

Whenever a town, acting under certified applicable town regulations which are being adequately enforced, issues licenses or permits for any regulated privilege, no state license or permit shall be required therefor (except as herein otherwise expressly provided).

**Sec. 12. Fire and building inspectors: chief of organized fire department ex officio fire inspector: fire inspector appointed when: building inspector appointed when: municipal officers serve when: compensation: qualifications.** In every town having an organized fire department, the chief officer of such department shall serve as fire inspector. In every town which has no organized fire department, the municipal officers may annually appoint a fire inspector who may also be the inspector of buildings.

In each town which has a population of more than 2,000, the municipal officers shall annually appoint a building inspector. In each town which has a population of 2,000 or less, other than village corporations, and in each village corporation if such corporation shall so vote, the municipal officers may appoint an inspector of buildings who may also be the fire inspector.

In all cases where there is no organized fire department and no fire inspector has been appointed, the municipal officers shall be charged with all the powers and duties of fire inspectors.

In all cases where no building inspector has been appointed, the municipal officers shall be charged with all the powers and duties of building inspectors.

The municipal officers shall determine the compensation of the fire inspectors and building inspectors, provided however that municipal officers serving as fire or building inspectors shall receive no additional compensation therefor.

Every fire inspector appointed under the provisions of this section shall be a man who has knowledge of fire hazards and causes.

Every building inspector appointed under the provisions of this section shall be a man who has knowledge as to the proper and safe construction of buildings.

**Sec. 13. Deputy fire and building inspectors: municipal officers serve when: compensation.** Whenever the chief officer of an organized fire department, serving as fire inspector, shall become incapacitated or otherwise absent from duty, all the duties of fire inspector shall be performed during his absence or incapacity by the next highest ranking officer of such organized fire department. When any fire inspector who was appointed by the municipal officers is absent or incapacitated from duty, the municipal officers shall either appoint a deputy fire inspector who shall perform all the duties of such fire inspector during his absence or incapacity, or such municipal officers shall be charged with all the powers and duties of fire inspectors.

Whenever any inspector of buildings shall have become incapacitated or absent from duty in a town which has a population of more than 2,000, the municipal officers shall forthwith appoint a deputy inspector of buildings who shall perform the duties of the inspector of buildings during his absence or incapacity; and in any town which has a population of 2,000 or less, other than village corporations, and in each village corporation in which a building inspector has been appointed, in event of his absence or incapacity, the municipal officers may appoint a deputy building inspector to serve during his absence or incapacity, or such municipal officers shall be charged with all the powers and duties of building inspectors.

The municipal officers shall determine the compensation of any deputy fire inspector or deputy building inspector, provided however that municipal officers performing such duties shall receive no additional compensation therefor.

**Sec. 14. Enforcement of state regulations by local officers: commissioner may prosecute when: notice: assistance by state police and sheriffs.** Whenever any state regulations are applicable to any town, it shall be the duty of fire inspectors, building inspectors, and municipal officers therein to prosecute all violations thereof. The commissioner shall prosecute such violations, but only after giving written notice of the alleged violation to such municipal officers, and after failure on their part for a period of seven days either to prosecute such violation or to abate the hazardous condition.

Whenever the commissioner shall deem that he is in need of assistance in enforcing any such town ordinances, by-laws or state regulations, he shall in writing request the chief of the state police department, or any sheriff for such assistance and such assistance shall be provided by said state police department or such sheriff.

**Sec. 15. Duties of building inspectors: permits required: fees: plans and specifications required when: appeal to municipal officers: penalty: inspections: directions in writing: petition for injunction: directions for additional exits or fire escapes: time for compliance: time how extended: appeal to court: injunction of public use.** No person shall commence the construction of a new building or the reconstruction of, structural alteration of, or construction of any addition to any existing building until he has first secured a permit therefor from the building inspector. Such permits shall be issued whenever such proposed building operation will not violate any applicable zoning law, building law, or state or municipal regulation. Towns may collect reasonable fees therefor commensurate with the cost of inspection and issuing of such permits. Building inspectors may require that plans and specifications of such proposed new building, reconstruction, structural alteration or addition, be filed before such permit is issued. Whenever such inspector refuses such permit and the owner deems himself aggrieved thereby, such owner may appeal to the municipal officers, who shall determine whether such permit shall be issued. Any owner or contractor who commences any such building operation before such permit has been issued shall be punished by a fine of not exceeding \$100 and by an additional fine of not exceeding \$25 for each additional day of continued violation.

The inspector of buildings shall inspect each new building during the process of construction, and each existing building in which re-

construction, structural alterations or additions are in progress, to ascertain that such building operations conform with applicable zoning laws, building laws, or state or municipal regulations. He shall give such directions in writing to the owner and contractor as he deems necessary to render such building operation in conformity with applicable laws or regulations. If such owner or contractor shall thereafter continue such building operations in violation of such directions, or shall commence any such building operations before a building permit therefor has been issued, any justice of the Superior or Supreme Judicial Court, in term time or vacation, may, upon petition of such building inspector and after notice and hearing, enjoin such owner or contractor or both from continuing such building operations or from using such building unit.

The building inspector shall from time to time inspect all public buildings and shall at least once each year inspect all places of public assemblage to ascertain any violation of applicable regulations. He shall make such additional inspections in specific cases as the municipal officers or the Commissioner may direct. Whenever the building inspector shall find that applicable regulations require the existence of additional exits or fire escapes in any public buildings or place of public assemblage, he shall give directions in writing to the owner for the construction of such exits or fire escapes. Such owner shall have 30 days thereafter in which to comply with such directions, but shall be deemed in compliance if such construction is commenced and continues uninterruptedly at the expiration of such 30-day period. The municipal officers may, in their discretion, extend such 30-day period in cases of undue hardship. Such owner may, by petition to any justice of the Superior or Supreme Judicial Court, in term time or vacation, appeal from such order. Whenever such owner shall fail seasonably to comply with such directions, any justice of either of such courts, in term time or vacation, may, upon petition of the building inspector, after notice and hearing, enjoin such owner from making any public use of such premises or admitting the public thereto until the exits or fire escapes required by applicable regulations have been constructed.

**Sec. 16. Duties of fire inspectors: annual inspection public buildings: inspections upon complaint: appeal to commissioner: penalty: removal of fire hazards: penalty for obstruction: compliance period extended when: orders of commissioner superseded when.** The fire

inspector, at least once each year, and oftener when required by the municipal officers, shall inspect or cause to be inspected under his direction all public buildings and the premises appurtenant thereto, including all places of public assemblage, to ascertain whether applicable regulations are being violated by fire escapes improperly maintained, exits blocked, or by the presence of any other fire hazards other than structural fire hazards subject to applicable regulations. Whenever any complaint is lodged with him, alleging the presence of fire hazards in violation of applicable regulations in any building or upon any premises in his town, he shall forthwith inspect such building or premises. Whenever he finds in any such building or upon any such premises any explosives or flammable substances improperly stored, or any exits or fire escapes improperly maintained, or any other such violation of applicable regulation, he shall forthwith in writing order the same to be removed or remedied; and such order shall be complied with within 48 hours by the owner or occupant of such building or premises, provided however, that if such owner or occupant shall deem himself aggrieved by such order he may, within 48 hours after receipt thereof, lodge an appeal with the Commissioner, who shall at once cause the complaint to be investigated, and who shall, within 10 days after the filing of such appeal, either affirm, set aside or modify the order of the fire inspector. Unless such order is modified or revoked, it shall remain in force and be forthwith complied with by said owner or occupant. Such 48-hour period for compliance may be further extended by the municipal officers at their discretion for sufficient cause, and upon appeal the Commissioner may fix the time for compliance.

Failure to comply with any such order not appealed from, or failure to comply with the order of the Commissioner after appeal, shall be punishable by a fine of not exceeding \$100 and an additional fine of \$25 for each additional day of continued violation.

If such owner or occupant shall fail seasonably to comply with such order, the municipal officers may order the fire inspector, or if there be no fire inspector, then such person as they may designate, to go upon such premises and remove, remedy or abate such dangerous condition; and any person who wilfully obstructs such fire inspector or designated person in the carrying out of such order shall be punished by a fine of not less than \$25.

When in any case the Commissioner is empowered to act in the

premises and issues orders and directions covering the removal, remedy or abatement of conditions found by him to violate applicable regulations, his orders shall supersede any orders or directions given by any fire inspector, building inspector or municipal officers.

**Sec. 17. Mutual reports.** Whenever any building inspector notes any of the conditions covered by section 16, he shall forthwith report their presence to the fire inspector who shall forthwith investigate the same. Whenever any fire inspector finds any of the conditions described in section 15, he shall forthwith report their presence to the building inspector who shall forthwith investigate the same.

**Sec. 18. Directions to owner or occupant: how given.** Whenever it shall become necessary for any building inspector or fire inspector to issue any orders or directions to any owner or occupant of buildings or premises, such orders or directions shall be given to both owner and occupant, and may either be given in hand to such owner and occupant or sent to the last and usual places of abode of such owner and occupant by registered mail with return receipt requested, or if the whereabouts of the owner thereof is unknown, then by publication of such directions three weeks successively in a daily newspaper located in the county in which such premises are situated, or if no such newspaper then in the state paper.

**Sec. 19. Right to enter and inspect: penalty for obstruction.** Any state inspector acting under the direction of the commissioner, any fire inspector, inspector of buildings, or any municipal officer of any town when acting as a fire or building inspector, may at all reasonable hours, for the purpose of examination, enter into and upon all buildings and premises within their jurisdictions.

Any owner or occupant of a building, who refuses to permit such officer to enter his building for the purpose either of inspecting the same or of searching for explosives or flammable substances improperly kept on the premises, or wilfully obstructs him in the inspection of such building as required by this act, shall be punished by a fine of not more than \$10, and each such refusal or wilful obstruction shall be construed as a separate offense.

**Sec. 20. Posting and closing buildings: notice where extreme hazard: penalty for obstructing, defacing, removing or destroying: penalty for admitting public: appeal to superior or supreme judicial**

**court: places of public assemblage cleared in emergency.** Where any premises are used for any public purpose or purposes, any building inspector or fire inspector, with the approval of the municipal officers, or the municipal officers or the commissioner may, if such premises do not conform to the standards of safety applicable to such premises, and if it is deemed that extreme hazard to the public safety exists, post notices in conspicuous places on such premises warning the public that such premises are unsafe, and forbidding the public to enter upon such premises until such directions as may be given for rendering the premises safe have been complied with. Any person wilfully obstructing such officer from posting such notices or who shall deface, remove or destroy any such notices shall be punished by a fine of not more than ten dollars for each such offense, and any owner or occupant who permits the public to enter upon such premises for any public purpose after such notices have been posted and until they have been removed by such officer or under his direction, shall be punished by a fine of not exceeding one hundred dollars. Any person deeming himself aggrieved by such posting may petition any justice of the superior or supreme judicial court in term time or vacation, who, after hearing upon such notice as the court may order, shall determine whether public safety requires the continuation of such posting.

Provided however, that where the fire inspector determines that an emergency exists in a place of public assemblage, which emergency is attributable to a hazardous condition which can be immediately abated, he shall order the owner or occupant to abate such condition forthwith, and, upon non-compliance, he shall clear such premises and close the same, preventing the public from having access thereto until such condition is abated, or such premises are permitted to be reopened by such court upon petition thereto.

**Sec. 21. Commissioner to prosecute delinquent officers: penalty for failure to enforce regulations.** Whenever it shall come to the knowledge of the commissioner that any building inspector, fire inspector or municipal officer shall have failed or refused to comply with any provisions of this act or to perform the duties imposed upon him by law, the commissioner shall at once proceed to investigate, and if sufficient evidence can be obtained, he shall at once institute proceedings against such officer, and the county attorney shall prosecute the same.

Every building inspector, fire inspector or municipal officer, who after knowledge of any violation of the regulations applicable in his town, refuses or neglects to perform the duties imposed upon him by law, shall be punishable by a fine of not exceeding \$50.

**Sec. 22. Investigation of fire, explosion or structural collapse: examination of witnesses: prosecution of violations of law: summoning witness and producing records: administering oaths: perjury: right to enter during or after fire or explosion: investigations private: attorneys for persons summoned admitted: witnesses may be separated: attorneys excluded when: investigation by local officers: commenced when: completed when: report: record: publication.** The commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined, the cause, circumstances, and origin of any fire, explosion or structural collapse, occurring within the state, by which persons are injured or killed or property is damaged or destroyed, and may specifically examine and decide whether the same was the result of carelessness or design. He shall, when in his opinion such proceedings are necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matters concerning which such testimony is taken, and may cause the same to be reduced to writing. If he shall be of opinion that there is evidence sufficient to charge any person with the crime of arson, incendiarism, or other violation of law, he shall cause such person to be arrested and charged with such offense, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all information obtained by him, including a copy of all pertinent and material testimony in the case.

The commissioner, his deputies and the municipal officers of towns shall each have the powers of a trial justice for the purpose of summoning and compelling the attendance of witnesses before them or either of them, to testify in relation to any matter which is by the provisions of this section a subject of inquiry and investigation, and to compel the production of all books, records, documents and papers pertaining thereto. The commissioner, or any deputy, or any municipal officer may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any such matter or proceeding shall constitute perjury and shall be punished as such. The commissioner and his subordinates shall have au-



thority, at all times of the day or night, in the performance of the duties imposed by this chapter, to enter upon and examine any building or premises where a fire is in progress or a fire or explosion has occurred, and other buildings or premises adjoining or near the same. Any investigation held by or under the direction of the commissioner, his deputies, or the municipal officers, may in their discretion be private, and persons other than attorneys admitted to the practice of law in Maine and representing persons summoned to appear at such hearing and such other persons as may be required to be present by the provisions hereof, may be excluded therefrom, and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined. Attorneys may be excluded except during examination of their own clients.

All fire inspectors shall furnish the commissioner with such information as he may require and shall perform such inspections as he may direct. When property is destroyed or damaged by fire, explosion of structural collapse, the fire inspector, or if there be none, then the municipal officers shall immediately notify the commissioner thereof, and shall investigate the cause, circumstances, and origin of such incident, and especially seek to determine whether it was the result of accident, carelessness or design. The investigation shall be commenced within 3 days after the occurrence of the incident, and the commissioner may supervise and direct such investigation whenever he deems it expedient or necessary.

When the fire inspector or municipal officers as the case may be have completed their investigation, which shall be within one week after the occurrence of the incident, they shall immediately file with the commissioner a written statement of all facts relating to the cause, circumstances, and origin of the incident, and the kind, value, and ownership of the property destroyed or damaged, and such other information as he may require. The commissioner may, if he sees fit, order further investigation.

The commissioner shall make a record of all incidents so investigated together with all facts connected therewith. Such record shall at all times be open to public inspection, and such portions thereof as the commissioner deems expedient shall be published in his annual report to the governor and council.

**Sec. 23. Commissioner of labor reports fire hazards.** If the com-

missioner of labor as state factory inspector or any authorized agent of the department of labor and industry shall find upon inspection that the means of egress in case of fire or other disaster in any workshop or factory are obstructed or insufficient or that other fire hazards or hazards of structural collapse exist, he shall forthwith notify the commissioner of insurance or the deputy state fire marshal of the existence and location of such conditions, who shall proceed forthwith to secure the safety of such premises.

**Sec. 24. Organized fire departments: regulation by towns.** Any town may organize a fire department and provide fire equipment and apparatus for the extinguishment of fires and the preservation of life or property from destruction by fires. Every such town which has so organized a fire department shall by ordinance prescribe rules and regulations for the care and management of such equipment and apparatus, for the employment, examination, tenure, compensation and training of firemen, and for the appointment of officers, and shall prescribe their rank, powers and duties. Such department shall be known as an "organized fire department."

**Sec. 25. Independent fire departments: regulation by association.** Any corporation or group of individuals providing fire equipment and apparatus may form a voluntary association for the extinguishment of fires, and the preservation of life or property from destruction by fires. Such association may adopt reasonable by-laws for the management of its affairs, and shall be known as an "independent fire department."

**Sec. 26. Control at fire by organized fire department.** In any town maintaining an organized fire department, an independent fire department shall at all times in the process of extinguishing fires, or preserving life or property from destruction at fires, be subject to the control of the officers of the organized fire department.

**Sec. 27. Independent fire department adopted by town.** Upon written request of the duly authorized representatives of an independent fire department, any town may by vote at any town meeting constitute such independent fire department an organized fire department which shall thereafter be subject to the same control by the town as provided in section 24.

**Sec. 28. Excuse from jury duty.** Firemen of either organized or

independent fire departments are excused from serving as jurors in any court.

**Sec. 29. Union fire departments: regulation by joint committee: committee proxy: budget allocation: appropriation by towns: forfeiture for non-appropriation: agreements for withdrawal.** Any 2 or more towns may by concurrent action establish a union organized fire department for the purpose of preventing and extinguishing fires in such towns or in such parts thereof as they may by concurrent action designate. The supervision and control of such department shall be vested in a joint committee composed of not more than 3 municipal officers from each of such towns, to be chosen by the municipal officers in each town, provided however, that the municipal officers of any such town may authorize one of their members to act for all the committee members of that town in meetings of the joint committee, and in such case the member so authorized may cast the votes of all the committee members of his town. Rules and regulations promulgated by this committee shall have the same force and effect as ordinances passed under the provisions of Section 24 of this chapter. Such joint committee shall annually prepare a budget of the anticipated expenditures for the maintenance of such joint department for the ensuing year, and the amount thereof shall be allocated among the several towns in the proportion that the state valuation of each such town served by the joint department bears to the state valuation of the several towns served by such joint department. Provided however, that if only part of the area of any town is served by such joint department, the towns may by agreement determine the proportionate allocation of expense to such town, and, upon failure to reach such agreement, the state tax assessor shall determine the proportion of the state valuation of such town within the area served by such joint department. Each such town shall annually by appropriation provide the sums so determined to be its proportion of the expense of such joint department, and upon the failure of any such town so to provide its proportionate share of such expense, such town shall forfeit any interest which it may have in any fire apparatus or equipment acquired by such joint committee. Such town may, at the time of organizing such joint department, by agreement determine the terms upon which any town will be permitted later to withdraw from such cooperative enterprise and the disposition of the equipment and departmental assets pointly owned upon such withdrawal.

**Sec. 30. Mutual aid: agreements for lending apparatus and compensation: inhabitants may summon when: mutual aid constitutes governmental function: firemen considered as performing regular duty: benefits of pension fund protected.** Any town owning or controlling fire apparatus may make use of it to extinguish fires in any other town in the state. The apparatus shall be so used only in conformity with reasonable terms and regulations which the municipal officers may prescribe. Municipal officers of towns may enter into agreements for the lending of fire apparatus and personnel when aid is required, and towns may by vote provide for the payment to other towns of reasonable compensation for such aid. Towns having no organized department may also by vote provide that the aid of other designated towns may be summoned by any inhabitant and authorize payment for the aid so summoned. Any town and its officers or employees shall, when engaged in the use of its apparatus at any point outside its corporate limits in aid of another town, be deemed to be employed in the exercise of its governmental functions. All firemen, full paid or volunteer, serving at a fire or doing fire prevention work outside the corporate limits of their respective towns shall be considered as serving in their regular line of duty as though they were serving within the corporate limits of their respective towns. All such firemen shall be entitled to the benefits of any pension fund or firemen's fund the same as if the fire-fighting or fire prevention work had been within the corporate limits of their respective towns.

**Sec. 31. Demolition of buildings at a fire: who may direct: seniority of selectmen defined: assistance may be required: penalty for refusal: compensation for demolished buildings.** In event of a fire in any town having an organized fire department, the chief officer of such department, or, in event of his absence, the officer then in charge of such department, may direct that any building be pulled down or demolished, if he judges it necessary to prevent the spread of fire. In towns not having an organized fire department, the municipal officers shall immediately attend the place of a fire and shall determine whether buildings shall be pulled down or demolished in the same manner as officers of an organized fire department. In event more than 2 municipal officers are present, decisions of the majority shall prevail; if only 2 be present, then, in the event of disagreement, the decisions of the senior municipal officer shall prevail; if only 1 be present, he shall direct all activities and make all decisions.

Where selectmen are elected by numerical designation, the first, second and third selection shall have precedence in that order. Where selectmen are not so elected, the word "senior" as used herein shall refer to the selectman who is senior in point of age.

During the progress of any fire, the officers of an organized fire department or the municipal officers as the case may be, who are in charge at such fire may require assistance in extinguishing the fire and removing merchandise and furniture, appoint guards to secure the same and to aid in pulling down or demolishing buildings and preserving order. Any person refusing to obey their orders shall be subject to a fine of not exceeding \$10.

If the pulling down or demolishing of any building, except that in which the fire originated, is the means of stopping the fire, or if the fire is stopped before it comes to the same, then the owner of such building shall be entitled to recover reasonable compensation for his loss or damage from the town in a special action on the case.

**Sec. 32. Investigation of forest fires: prosecution of unlawful acts: reports to forest commissioner.** Fire inspectors, or municipal officers when acting in the capacity of fire inspectors, shall proceed immediately to a strict inquiry and investigation into the cause and origin of forest fires occurring in their respective towns; and in all cases where such fires are found to have originated from the unlawful act of any person, they shall cause the offenders to be prosecuted without delay. If such forest fire shall be of more than 1 acre in extent, they shall within two weeks thereafter report to the forest commissioner the extent of area burned over to the best of their information, together with the probable amount of property destroyed, specifying the value of timber, as near as may be, and the amount of cordwood, logs, bark, or other forest product, fencing, bridges and buildings that have been burned. They shall also report the causes of these fires, if they can be ascertained, and the measures employed and found effective in checking their progress. Blanks for such report shall be furnished by the forest commissioner at the expense of the state.

**Sec. 33. Forest fire wardens: who shall serve: compensation: control of forest fires: requiring assistance: compensation of persons assisting: penalty for refusal: action for neglect.** The chief officer of each organized fire department shall serve as forest fire warden in

his town. In towns not having organized fire departments, the municipal officers may annually appoint a forest fire warden, but if they fail so to appoint, the municipal officers shall have the powers and perform the duties of forest fire wardens. Municipal officers shall fix the compensation to be paid forest fire wardens, provided, however, that if the municipal officers serve as forest fire wardens, they shall be paid at a rate not exceeding that paid for their other official services. Whenever a forest fire is discovered, forest fire wardens shall take such measures as may be necessary for its control and extinguishment. For this purpose they may call upon any persons in the town for assistance, and may if necessary appoint deputy forest fire wardens to assist in directing and controlling such operations. All such persons shall receive such compensation as the municipal officers may determine, and they shall be provided with subsistence during their service, the same to be paid for by the town; provided that no town shall be holden to pay for extinguishing forest fires in any year an amount greater than 2% upon its state valuation for the purposes of taxation. Whenever any town is compelled to expend sums in excess of such 2 per cent of its state valuation for extinguishing forest fires in any year, the State Controller shall, upon receipt of a proper voucher therefor, presented by the Forest Commissioner, draw his warrant upon the State Treasurer in favor of such town for the amount of such excess. The sums necessary therefor are hereby appropriated from the general funds for such purpose. If any person so ordered to assist and not excused from such service by such forest fire wardens or deputy wardens on account of sickness, disability, or some important business/or engagement, shall neglect to comply with any such order, he shall be subject to a fine of not exceeding \$10. If any person shall suffer damage from fire in consequence of the neglect of such forest fire wardens or municipal officers of any town to perform the duties required by this section, such person shall have an action on the case to recover from the town where the fire occurs the amount of his damages so sustained not to exceed 2% of the state valuation of such town.

**Sec. 34. Disposal of slash or debris: limitations adjacent railroad right of way or road: operations adjacent Maine Forestry District or property of another: slash or debris to be broadcast when: forest commissioner may issue permits when: how issued: penalty: slash or debris from lumber operations.** Any person, firm, corporation

or agent cutting any forest growth on property adjacent to the right of way of any railroad or highway within the state shall leave the growth uncut on the land within 50 feet of the limit of the right of way of a railroad or from the nearer side of the wrought portion of any plantation, town, city, county or state road; or shall dispose of slash or debris caused by cutting in such a manner that inflammable material shall not remain on the ground within 50 feet of the limit of the right of way of a railroad or from the nearer side of the wrought portion of any plantation, town, city, county or state road. Any person, firm, corporation or agent cutting any forest growth, and all such firms, persons and corporations who by themselves, their agents, servants, licensees, permittees or lessees operate or permit operation of portable sawmills shall dispose of slash and debris caused by cutting in such a manner that inflammable material shall not remain on the ground within 50 feet of the property line, provided that the forest commissioner on his own initiative or upon written complaint of another declares that the situation constitutes a fire hazard. Also provided that such slash and debris which is not burned in accordance with the terms of this section may be, with the approval of the forest commissioner, so broadcast as to keep the hazard on the tract at a minimum. Provided however, that consent and direction in writing from the forest commissioner shall be required for the burning of such brush or slash or for the burning of blueberry land or grass land adjacent to any forest growth except when the ground is covered with snow. The forest commissioner shall cause to be furnished to all of the chief forest fire wardens of the Maine Forestry District and to the chief officers of organized fire departments or to the municipal officers of all towns not having organized fire departments located outside the Maine Forestry District, blank permits issued by him for the burning of brush or slash or for the burning of blueberry land and grass land adjacent to any forest growth. Any such chief forest fire warden or chief officer of an organized fire department, or the municipal officers as the case may be, in the town where the land is located, shall have full authority to countersign and grant such permits issued by the forest commissioner. The forest commissioner may, however, in any particular case called to his attention, overrule the decision of any such chief forest fire warden or of any such chief officer of an organized fire department or the municipal officers as the case may be, and

himself grant the permit asked for or forbid the granting of the same.

Whoever violates any of the provisions of this section shall on conviction thereof be punished by a fine of not exceeding \$50.

Any person, firm, corporation or agent who cuts any wood or lumber within the woodlands of this state and desires to dispose of the slash and debris caused by such cutting or clearing by burning shall be first required to obtain a permit therefor in accordance with the provisions of this section and on failure thereof shall be subject to the penalty provided in this section.

**Sec. 35. Fires on own land: permit required except when: penalty: action for negligent fire.** The chief of any organized fire department, or if there be no organized fire department, then any one of the municipal officers, shall, except for reasons of public safety or fire prevention, issue permits for any person to kindle fires on his own land or land legally occupied by him or upon any public street or way adjacent thereto. No person shall kindle such a fire other than in an incinerator, outdoor fireplace or suitable container, without first obtaining such permit, and whoever violates this provision shall be subject to a fine of not exceeding ten dollars. Any person who is injured as to person or property by a fire kindled negligently in an unsuitable place or manner shall have an action on the case for his damage. If no such permit is contained, the person kindling such fire shall be deemed prima facie negligent. Nothing herein, however, shall be so construed as contravening the provisions of law requiring permit from the forest commissioner as to fires kindled in forest growth or upon grassland adjacent thereto.

**Sec. 36. Fire on land of another: consent of owner and permit required: penalty: penalty where property damaged.** Whoever kindles a fire on land not his own, or legally occupied by him, without the consent of the owner and a permit as provided by section 35, shall be punished by a fine of not exceeding ten dollars. If such fire spreads and damages the property either of such owner or others, such person shall be punished by a fine of not less than \$10, nor more than \$500, and in either case he shall stand committed until fine and costs are paid, or he shall be imprisoned for not more than three years. Nothing herein, however, shall be construed as contravening the provisions of law requiring permit from the forest commissioner



as to fires kindled in forest growth or upon grassland adjacent thereto.

**Sec. 37. Fire with intent to injure: penalty.** Whoever with intent to injure another, causes a fire to be kindled on his own or another's land, whereby the property of any other person is injured or destroyed, shall be punished by a fine of not less than \$20, nor more than \$1000, or by imprisonment for not less than 3 months, nor more than 3 years.

**Sec. 38. Fires permitted when: utmost caution required: penalty: fires to be totally extinguished: employment of guides.** Persons engaged in driving lumber or other forest products on inland waterways, persons who are lost in the woods or who are compelled by other circumstances to remain outdoors in the woods over night, guides licensed in Maine, or persons accompanied by such licensed guides may kindle fires when necessary, but shall use the utmost caution to prevent them from spreading and doing damage. Fires may be built upon any campground or picnic ground set aside and designated by the state or any of its subdivisions for that purpose, or upon the open sea or lake beaches. If any person kindling a fire permitted by the terms of this section shall fail to use the utmost caution to prevent such fire from spreading and doing damage, he is subject to the same liabilities and penalties as provided in section 36, in the same manner as if such privilege had not been allowed. Provided also that no person shall be deemed to have exercised the utmost caution in preventing such fires from spreading and doing damage if he shall leave such fire without totally extinguishing the same.

No guide shall at the same time guide or be employed by more than three persons in camping, fishing or hunting.

**Sec. 39. Common law rights not diminished: exception: action for negligence as to permitted fires.** Common law right to an action for damages done by fires is not taken away or diminished, and it may be pursued notwithstanding the penalties set forth in this chapter, but any person availing himself of section 35 is barred of his action at common law for damage so sued for. And no action shall be brought at common law for kindling fires in the manner described in section 38; but if such fire spreads and does damage, the person who kindled it, and any person present and concerned in the activities

during which such fire was kindled, by whose negligence such fire is suffered to do damage, are liable, in an action on the case, for such damage.

**Sec. 40. Larceny at a fire: penalty.** Whoever commits larceny in a building on fire or steals property exposed by reason of fire or removed on account of an alarm of fire shall be punished by a fine of not more than \$500 or by imprisonment for not more than 5 years.

**Sec. 41. False alarm: penalty.** Whoever knowingly and wilfully gives or causes to be given a false alarm of fire in any town, shall upon conviction thereof be punished by a fine of not more than \$50 or by imprisonment for not more than 2 months or by both such fine and imprisonment.

**Sec. 42. Blasting: notice of danger: penalty: liability for damages.** No person shall engage in any blasting or other operations involving explosions without first giving notice and warning to all persons who are themselves present or possess damageable property within the area of danger and without first giving such persons an adequate opportunity to vacate such area. Whoever violates this provision shall be punished by a fine of not exceeding \$50 and shall be liable in an action upon the case for all damages caused by such explosion. The person or corporation for whose benefit such blasting operations are being done shall be responsible for the giving of such notice and opportunity for removal even though not themselves present and shall be liable for damages to persons or property caused by any failure therein.

**Sec. 43. Demolition of burnt, dilapidated or dangerous buildings.**  
**(Sub-section I) Inspection: filing of findings: emergency reported to the commissioner: investigation and temporary order by commissioner.** Whenever any building in a town by reason of being burnt or dilapidated or for any other reason whatsoever has become unfit for human habitation or use or dangerous and unsafe for the occupants thereof or for the public either because the same is a fire hazard or is in danger of collapse or for other reason, the municipal officers shall forthwith after they receive knowledge of such condition, either on complaint of any person filed with the clerk of such town, or otherwise, cause an injunction of such building to be made by the fire inspector if any has been appointed. If there be no

fire inspector or building inspector in such town, the municipal officers shall forthwith inspect such building. The fire inspector and building inspector, if any there be, shall within 24 hours after such inspection file with the clerk of such town a certificate in writing setting forth their findings as to the condition of such premises, which certificates shall also set forth what repairs or alterations are necessary to render such building safe. In event there is no fire inspector or building inspector, the municipal officers shall record their findings with the clerk in the same manner. If the municipal officers determine that the condition of such building is such as to create an emergency which imperils the safety of the public and that it would be dangerous to allow such condition to continue for a period of 7 days, they shall forthwith inform the commissioner of such dangerous condition and such emergency, and he shall forthwith cause such premises to be inspected, and if he determines that an emergency exists which must be remedied immediately, he shall make an order setting forth what must be done to render such premises temporarily safe pending further hearing and such municipal officers shall proceed forthwith to execute such order.

**(Sub-section II) Permanent orders for repairing or demolition: method of giving: time for compliance: extension.** If the municipal officers or the commissioner determine that no immediate emergency exists or if after execution of such orders as the commissioner may make, the municipal officers shall determine that something further must be done to assure the permanent safety of such building, they shall determine what repairs or alterations should be made by the owner to render such building safe. They shall then in writing direct such owner either to make such necessary repairs or to demolish such building. Such directions shall be delivered to such owner either in hand or by mailing the same to such owner by registered mail, return receipt requested, at his last and usual place of abode, or, if the whereabouts of such owner be unknown, then by publishing such directions for 3 weeks successively in a daily newspaper published in the county where such premises are located, or, if no such paper, then in the state paper. Such owner shall have 7 days after delivery of such notice or after its last publication within which to comply with such directions, and he shall be deemed in compliance if he has begun the work before such 7 day period expires and if such work continues uninterruptedly. Such 7 day period may be extended in the discretion of the municipal officers for cause.

**(Sub-section III) Repair or demolition by municipal officers: credit for salvage: special tax for expense.** If at the expiration of such 7 day period the owner has not begun to comply with such directions, the municipal officers may cause such buildings to be repaired sufficiently to make it safe or may cause it to be torn down or demolished as they may in their discretion determine. The cost of any work done by direction of the municipal officers in repairing or demolishing such building shall be borne by the town in the first instance, and credit shall be given by the town for the proceeds derived from the sale of any material salvaged from such building. In any case where the owner of such premises within 30 days after notice in writing of the amount of such expense, fails, neglects or refuses to repay such town the expense thereby incurred, a special tax may be assessed by the assessors of taxes against the land on which such building was located for the amount of such expenses, and such amount shall be included in the next annual warrant of the collector of taxes of such town, for collection, and shall be collected in the same manner as state, county and municipal taxes are collected.

**(Sub-section IV) Appeal to municipal officers: appeal to superior or supreme judicial court: orders of court: procedure as in equity: action for compensation where bad faith: assessment of costs.** On application of the owner filed with the clerk of such town at any time prior to the expiration of such 7 day period, the municipal officers shall hold a hearing at which such owner may appear and show cause why the directions of the municipal officers should be modified or revoked, and thereafter the municipal officers shall affirm, modify or repeal their directions to such owner. On petition of such owner, filed within 30 days after receipt of such orders, any justice of the superior or supreme judicial court in term time or vacation upon such notice as such court shall order, and after hearing, may enjoin such municipal officers from proceeding with the repair or demolishing of such building, and such orders of the court shall be binding upon the owner and the municipal officers and upon such other persons as may be parties thereto. Such court may if it sees fit extend the time within which such owner may comply with such orders as the court may make; and the rules of law and procedure in such cases shall be the same as in equity cases.

Whenever an owner deems that such building has been demolished wholly or in part or the value thereof has been impaired by direction

of the municipal officers acting in bad faith, to an extent inconsistent with the necessity for rendering such building safe for the occupants or the public, he may file a petition with such court, and upon proof thereof, such court may determine what compensation should be paid therefor by such town to such owner and may order the payment of the same; and such court may assess the costs of such proceeding against either party or apportion the costs among the parties, but any costs assessed against such owner may be collected by such town as a part of the next regular tax levy against such owner.

**(Sub-section V) Commissioner may act when: powers of commissioner.** If in any case the municipal officers shall fail to act upon any complaint filed with the clerk of such town for a period of 7 days after the filing of such complaint, the complainant may file the same complaint with the commissioner, in which case the commissioner shall proceed forthwith to act in the premises and shall pursue the methods set forth in the four preceding sub-sections and shall be vested with all the powers and duties of such municipal officers. If on complaint, the commissioner finds that an emergency exists and that such municipal officers have refused to act in the premises, he may proceed even before the expiration of such 7 day period to take such action as may be required by such emergency.

**(Sub-section VI) Penalty.** Any person who violates any of the provisions of this section or any order issued thereunder shall be punished by a fine of not exceeding \$100 and by an additional fine of not exceeding \$25 per day for each day of continued violation, provided however that where an appeal is taken and perfected, such person shall be penalized only for violation thereafter of the orders of the court.

**Sec. 44. Personal property in buildings demolished: notice to owner: time to remove: removal by municipal officers: No liability for damage: lien for expense: procedure as in warehouseman's lien: redemption: perishable goods.** Whenever it shall be necessary to demolish any building under the preceding section, in which furniture or other chattels are lodged or stored, the municipal officers, or the commissioner in all cases where he is acting in their stead, shall in writing notify the owner of such personal property, or if he be unknown, then the owner of such premises, of the necessity of removing such contents from such building before it is demolished. Such owner shall have 7 days after the giving of such notice in which to

remove such contents to a safe place, but if at the expiration of such 7 day period such contents shall not have been so removed, then the municipal officers or the commissioner as the case may be shall cause such contents to be removed and stored, but neither such municipal officers, commissioner or the town shall be liable for any loss or damage to any of such contents during such removal or storage.

All of the expenses of such removal and storage shall be borne by the town in the first instance, but such town shall have a lien for the expense incurred in such removal and storage and giving of the notices in connection therewith required by law. Such lien may be enforced by a sale of such contents held at the place of storage or such other suitable place as the municipal officers may designate and the proceedings at such sale, including the notice given in connection therewith, shall be the same as are prescribed for the satisfaction of a warehouseman's lien by sale in section 33 of chapter 163. Such lien at any time prior to such sale may be discharged by any person claiming a right of property or possession in such contents by payment of the expenses of such removal and storage together with the reasonable expenses and liabilities incurred in serving notices and advertising and preparing for the sale up to the time of such payment.

Perishable or hazardous goods may be sold and disposed of in the same manner as provided in section 34 of chapter 163.

**Sec. 45. Repeal section.** All provisions of law inconsistent with the provisions of this act are hereby repealed, and the following provisions of law are specifically repealed:

(To be drawn after enactment of new revision of statutes).

#### **AN ACT Authorizing Towns to License Public Dance Halls.**

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

**R. S. Chapter 5, section 136, relating to by-laws of towns, cities and villages amended.** Subdivision 15 of section 136 of Chapter 5 of the Revised Statutes as enacted by Chapter 265 of the Public Laws of 1931 is hereby further amended by striking out all of said subdivision and substituting therefor the following:

**“Licensing of dance halls. XV.** Towns may by ordinance or by-law make reasonable regulations for the licensing and conducting of dance halls and to provide suitable penalties for violations thereof.”

## Reporter of Decisions

The Committee has had occasion to inquire into the situation as it exists in relation to the Reporter of Decisions and we find a condition which we believe is susceptible of some improvement.

The primary duty of the Reporter as prescribed by existing statutes is two-fold. In the first instance, he is required to prepare for publication the opinions handed down by the justices of the Supreme Judicial Court in deciding the cases submitted to them by litigants. In addition to this, he must prepare headnotes to the several cases embodying in brief and concise terms the several points of law decided. He must supplement the opinion with such preliminary statement of the case as may seem necessary for its proper understanding. He must append to each volume a digest of the cases reported in such form and arrangement as to enable the consultant readily to find the particular matter of which he may be in search, and, when sufficient material has accumulated in his hands to warrant the publication of a volume of reports, to edit and index it and put it in the hands of the printer.

All this, it will be seen, calls for a high degree of legal knowledge, skill and discretion if the published volume is truly to reflect the labors of the judges who have contributed and be looked upon by the many who have occasion to consult it, not only within but beyond the borders of the state as a credit to our court of last resort.

The Reporter is then charged with a duty of an entirely different character. The statute provides first that the price at which the volumes of reports are to be sold shall be fixed by the Governor and Council. In the case of the last volume, the 138th, the fixed price was \$3.50 if bound in buckram and \$4.50 if in leather.

The Reporter is authorized to make his own contract with some publisher for the printing, publishing and binding of the reports and is further authorized to retain out of the profits derived from the sale of the reports the sum of \$500 each year as compensation for clerk hire, stationery, postage, expressage and incidental expenses. No restriction or limitation is placed upon the terms or character of the contract which the Reporter may make. The statute does not prescribe whether the reports shall be sold by the publisher or by the Reporter.

For example a Reporter may make a contract with a publisher as a result of competitive bids by the terms of which the publisher will produce the volumes and deliver them to the Reporter for either a gross sum or a fixed price per volume. Under such a contract the publisher knows exactly what he is to receive from his work. The Reporter may then proceed to sell the books at the price fixed by the Governor and Council assuming the hazard of the sale of a number of volumes insufficient to produce the amount which he has obligated himself to pay to the publisher. By such an arrangement the publisher takes no risk and the Reporter assumes the entire risk.

Another plan would be that by which the Reporter makes a contract with a publisher to publish the entire edition, selling it himself at the fixed prices and paying over to the Reporter the sum of \$500. Under this form of contract the Reporter would assume no risk and the publisher would take all the chances.

As a matter of fact, a modified form of the second type of contract is the one which has for quite a number of years been used. The publisher sells the product at the fixed prices and pays to the Reporter the \$500 stipend.

But there is another provision that if the publisher receives in gross a sum above an amount fixed in the contract, he will remit the excess to the Reporter who in turn will pay it over to the Treasurer of State. We are informed, however, that the upset amount is not in practice received so that the state gets no share in the profits.

The number of volumes published varies but slightly. We are informed that 1350 copies of volume 138 were published and that about 1150 were sold, of which the state has purchased 750. Of course, the numbers published, sold and purchased by the state vary within somewhat narrow limits from year to year.

We believe that the duties of the Reporter of Decisions should be limited to his professional task and that he should be entirely relieved from the business portion. We think that the state should contract for the publishing of the reports and supervise their sale and distribution as in the case of other state publications, making a price to the purchaser which should represent no more than a nominal margin over the cost of production.

In the performance of these restricted duties we believe that the Reporter should be under the immediate supervision and control of the Court, whereas at the present time he is wholly independent of



that tribunal and his tenure is solely at the pleasure of the executive. In all the remaining New England States the Reporter is appointed by the Court. We think this to be the proper method; and in the interest of centralizing responsibility and control we think the appointment should be made by the Chief Justice.

From the nature of the case the Reporter must retain the opinions which are handed down by the judges until a sufficient number has accumulated in his hands together with the other material which he must supply to warrant the publication of a volume and this of necessity means that when a volume is available considerable time has elapsed since the announcement of the earliest opinions which it contains, but unfortunately in recent years there has been an increasing tendency to delay publication for what seems to us to be an unreasonable length of time from the announcement of the last opinion contained.

For example the time lag between the date of the last opinion and the receipt of the published volume at the State Library was approximately six months for volumes 134, 135 and 136, but for volume 137 it was eleven months and for volume 138, seventeen months. The date of the last opinion in volume 138 is May 1, 1942 and the volume was received in October, 1943.

The Reporter of Decisions has pointed out that delay in publishing volume 138 was caused in part by war conditions, and very largely by the fact that the printing could not be started until after volume 137, prepared by her predecessor in office, was completed, a situation largely beyond her control; however, it is believed that control by the Court through the Chief Justice would tend to expedite the publishing of the reports.

A consolidation of the offices of Reporter of Decisions and Clerk of the Law Court has been suggested and the suggestion meets with our approval. As at present authorized the Chief Justice designates one or more of the clerks of court to act as Clerks of the Law Court, they receiving such reasonable compensation as may be fixed by the Chief Justice but in the aggregate not to exceed the sum of \$1500 per year. Similarity of qualifications required to be possessed by the incumbents of both these offices would seem to indicate the propriety of their combination.

The work of the court should thereby be simplified and the expense to the state very probably diminished.

## Recommendations

The committee recommends

1. That the offices of Clerk of the Law Court and Reporter of Decisions be combined, the incumbent to be appointed by the Chief Justice and to hold office during his pleasure.

2. That the Maine Reports be published and sold by the state.

A bill designed to carry into effect the recommendations embodied in this report is hereto appended.

### **An Act to Consolidate the Offices of Clerk of The Law Court and Reporter of Decisions**

Be it enacted by the people of the State of Maine as follows:

**Sec. 1. Appointment.** The Chief Justice of the Supreme Judicial Court shall appoint a person learned in the law to be Clerk of the Law Court and Reporter of Decisions, who shall hold office during his pleasure.

**Sec. 2. Duties.** As Clerk of the Law Court he shall under the direction of the Chief Justice perform the duties pertaining to that office.

As Reporter of Decisions he shall under the direction of the Chief Justice prepare for publication correct reports of all legal questions argued and decided by the Supreme Judicial Court with suitable headnotes, tables of cases, indexes and other material customarily included in the Maine Reports, furnish them to the publisher and superintend the correction, proof-reading and publication thereof. The size, style and content of each volume of reports shall be approved by the Chief Justice.

**Sec. 3. Salary.** He shall be paid an annual salary of \$3500 and an additional allowance of \$500 for clerk hire. The Chief Justice may allow as an expense of the Law Court the necessary traveling expense of the Clerk.

**Sec. 4. Publication of Reports.** The Governor and Council shall provide for the printing, binding, distribution and sale of the volume of Reports and of the advance sheets thereof.

**Sec. 5. Copyright.** Each volume of the Reports shall be entered by the Secretary of State with the Librarian of Congress and copyrighted in the name of the State of Maine and the manuscript and copyright thereof shall belong to the State.

**Sec. 6. Repealing Clause.** All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

## Revision of Statutes

Current comment upon some apparent delay in completing the revision of statutes now in progress led the Committee to make inquiry into this field and we think it proper to make our findings public.

A revision of the public laws of this state was authorized on April 15, 1927 and a commissioner was appointed to undertake the work who made his report to the succeeding legislature in January, 1929. The commissioner was then authorized to complete the revision under the supervision of a joint select committee of the legislature. The revision was presented to the legislature and was adopted by it on August 5, 1930. Over three years of time was thus involved and an expenditure of over \$90,000 was incurred.

In 1931 the legislature created the office of Revisor of Statutes as a permanent and continuing office. Assistance to legislators in the drafting of public laws and preparation and printing of the session laws are among the lesser duties prescribed by the statute. By custom, certain supervisory work in checking legislation at various stages and the editing of pamphlets of departmental laws has been undertaken by the revision office.

The major task, which must have been the real purpose of the legislature, was a continuous revision of the statutes and this has not been done. Any criticism of the performance in office of the first Revisor contained in this report is included here only for the purpose of pointing out to the new Revisor and to the members of the legislature what procedure should be followed in the future and what the state is entitled to expect for the money it pays to maintain the office of Revisor of Statutes.

On April 25, 1941 a legislative resolve was approved by the Governor providing for the compilation, printing, and publishing of a new revision of the statutes. A joint select committee of the legislature was created to work with the Revisor in producing this revision. On March 30, 1943 a new joint select committee of the legislature was created to complete the task. According to the best present available information the revision will not be ready for presentation to the legislature much prior to October 1, 1944, and estimates of the entire cost are over \$90,000. Apparently the state has received very little value for the money it has expended for revisory work from 1931 to 1941.

The 1941 joint select committee in Legislative Document No. 1 reported tersely to the legislature of 1943 the deficiencies it had found, as follows:

When the Revision Committee met on May 9 for organization it was the understanding of each member of the Committee that the Revisor of Statutes had made a continuous revision of the Statutes under the provisions of Chapter 210 of the Public Laws of 1931, so that the Committee would be in a position to proceed at once to complete and codify the work which the Revisor had set up during his 10 years in said office. Upon an examination of the records in the office of the Revisor of Statutes by the members of the Revision Committee, the Committee found that the only revision of the Statutes was a copy of the Revised Statutes of 1930 having been clipped from the book and pasted on plain paper and each chapter so clipped was placed in a folder, the chapter numbers and sections being the same as in the 1930 revision with an addition of the amendments of each session of the Legislature written in in different colored pencil for each Legislative year since 1930.

The statute of 1931 is well adapted to its purpose and in the opinion of the committee needs no alteration by the legislature. The successors to this Legislative Research Committee should in the future study the reports which the Revisor is by statute required to make, and if such reports are not made, as has been the case in the past, should inquire of the Revisor concerning them and should report what it finds to the legislature.

The Revisor should, instead of continuing the system criticised by the joint select revision committee, set up a system that will at all times disclose the instant state of all statutes ready at the moment to be sent to the printer.

Revision, properly speaking, is not merely a compilation of what exists as statutory law but in addition thereto includes clarification of language, deleting of unnecessary words, introduction of apt words defined by the courts and modernization where changing conditions have made statutes obsolescent. The continuous revision required by the statute creating the office of Revisor should be carried on constantly and should be submitted regularly as the work progresses, to each incoming legislature.

A careful study of the Wisconsin system, among others, is recommended to the present Revisor. Two notable features of that system may be noted here but only for further study of costs and benefits and not as a present recommendation for adoption.

One feature of the Wisconsin system is topical revision. Each

biennium the Revisor selects or the legislature assigns certain chapters for study and revision. The work is done in the interim between legislative sessions; the resulting revision of the chapters is submitted as a bill by some member of the next legislature, goes through the usual legislative procedure of reference to a committee, several readings, and enactment. Those chapters are thereby revised and as to them the revision is established. Over a period of years topical revision may thus embrace all the public laws.

The second feature of the Wisconsin system is the publication biennially of the statutes as they exist at that moment. Every statute passed by the legislature at a given session is allocated to its place in the statutes at the time of passage or by blanket allocation in a bill for that purpose at the end of each session. The type for the original revision, such as the bulk revision which Maine is now making, is owned by the State, and the biennial printing requires new type and printing materials only for the comparatively small amount of new public laws passed at the legislative session just preceding. The result is that any person wishing to find a public statute needs to look only at the current single volume which includes all prior amendments. This result has notable advantages over our system under which it is necessary to start with the revision of 1930 and check six volumes of session laws, with the ever present danger that amendment or repeal in some session may be missed through oversight, eccentricity of index, or error in cross reference tables.

This committee heartily commends the 1931 statute and the process that was intended to be set up. Nothing can be conceived at the moment that would do more for keeping our statutes easily available to the public than this system which provides for a revisor who, if he merit retention in office, will become increasingly expert with the years in this unique type of work, and will provide a source of information as to the state of any statute always up to the minute and will work a considerable financial economy to the state.

Dated March 29, 1944

Respectfully submitted,

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