

MAINE STATE LEGISLATURE

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

Legislative Document

No. 328

H. P. 939

House of Representatives, February 2, 1939.

Referred to Committee on Public Utilities and sent up for concurrence.
500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Noyes of Franklin.

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

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT Relative to Dams in Disrepair.

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

Sec. 1. Duty of owner. The owner of a dam shall so maintain and repair it that it shall not become "a dam in disrepair" and a dam in disrepair is a dam which is a menace to public safety or incapable of safely impounding flood waters to its crest or incapable of maintaining a reasonably constant level of waters impounded or one which does not contain adequate gates and sluice-ways to provide for the holding or controlled discharge of waters impounded.

Sec. 2. Towns may petition. The municipal officers of any town in which the whole or any part of a dam is located, if they have reason to believe the dam may be in disrepair, may petition the public utilities commission for an investigation, to determine whether such dam is in disrepair. The municipal officers shall so petition the public utilities commission, when requested to do so by 10 tax-payers of such town.

Sec. 3. Public utilities commission to give notice. The public utilities commission, upon its own motion or upon the filing of a petition pursuant to the foregoing section, shall notify the owner of such dam of the filing of said petition and set a time and place for hearing, to determine whether

such dam is in disrepair. Said notice shall be given at least 14 days before said hearing and may be given in hand to the owner or sent to him by registered mail, or at the option of the public utilities commission said notice may be given by publication once each week for 2 successive weeks in some newspaper of general circulation in the county in which the dam or any part thereof is located. If notice is given by publication, the first publication shall appear at least 21 days prior to the date of hearing.

Sec. 4. Inspection. Upon receipt of such a petition, the public utilities commission may before said hearing cause an inspection of said dam to be made by a competent person who may be one of its employees.

Sec. 5. Hearing. Pursuant to notice given by the public utilities commission, it shall hold a public hearing, and find, upon evidence furnished by its employees or otherwise, whether said dam is in disrepair. If it finds such dam in disrepair, it shall request the owner thereof to make the requisite repairs or reconstruction within a period to be fixed by such request.

Sec. 6. Town may take. If the owner shall fail to comply with such request, a town or group of towns jointly in which all or a portion of such dam is located may take by eminent domain proceedings in accordance with the provisions of section III of chapter 5 of the revised statutes of 1930, such dam and other real estate, franchises, easements, flowage and other property wherever located, necessary, or desirable in the opinion of the voters thereof to enable the town or towns to construct, maintain, repair, own and operate the same. Appeal from the estimate of damages shall be governed by section II2 of chapter 5 of the revised statutes of 1930.

Sec. 7. Voters to authorize taking. Any town upon petition in writing signed by at least 10 of its taxpaying citizens directed to the municipal officers describing the dam and appurtenances as set forth in the preceding section to be taken as herein provided, and the names and owners thereof, so far as they are known, may at a meeting of such town, or city council in the case of cities, direct such municipal officers to take such dam and other real estate, franchises, easements, flowage and other property wherever located necessary or desirable in the opinion of the voters of such town, and in the case of cities said municipal officers, for municipal purposes, to enable the town or city to construct, maintain, repair, own and operate the same, and thereupon such officers may take such dam and appurtenances for such purposes.