

MAINE STATE LEGISLATURE

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

Legislative Document

No. 88

H. P. 95

House of Representatives, January 21, 1943.

Referred to Committee on Legal Affairs, sent up for concurrence and 750 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Payson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Revising the Fire Prevention Laws.

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

Sec. 1. R. S., c. 26, §§ 36-40, inclusive, repealed. Sections 36 to 40, inclusive, of chapter 26 of the revised statutes are hereby repealed.

Sec. 2. R. S., c. 35, repealed, and new chapter enacted. Chapter 35 of the revised statutes, as amended, is hereby repealed and the following new chapter, to be designated Chapter 35 is hereby enacted:

CHAPTER 35

Fire Departments and Fire Prevention

Sec. 1. Organized fire departments, creation and regulation. Any town may organize a fire department and provide fire equipment and apparatus for the extinguishment of fires or 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. 2. Independent fire department, creation and management. Any corporation or individuals providing fire equipment and apparatus may form a voluntary association for the extinguishment of fires, or 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. 3. Control by organized fire department. In any town maintaining an organized fire department, any 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. 4. Independent fire department may become official town department. 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 official town department. Such independent fire department shall thereupon be known as an "organized fire department," and shall thereafter be subject to the same control by the town as provided in section 1.

Sec. 5. Firemen excused from jury duty. Firemen of organized fire departments are excused from serving as jurors in any court.

Sec. 6. Demolition of buildings to prevent spread of fire; location of authority in event of fire. 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 said 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 selectmen 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 continuance of any fire, said officers of an organized fire de-

partment or said municipal officers as the case may be, who are in charge at said 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 suppressing disorder. Any person refusing to obey their orders shall be subject to a fine of not exceeding \$10.

Sec. 7. Compensation for building demolished. 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 is entitled to recover a reasonable compensation therefor from the town in a special action on the case.

Sec. 8. Cooperative fire prevention among towns. Any 2 or more towns may by concurrent action establish a union organized fire department for the purpose of the prevention and extinguishing of fires in such towns or in such parts thereof as such towns by concurrent action shall designate. The supervision and control of such department shall be vested in a joint committee composed of all of the municipal officers of such towns, provided however, that the municipal officers of any such town may authorize one of their members to act for all the municipal officers of that town in the meetings of the joint committee, and in such case the member so authorized may cast the votes of all the municipal officers 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 1 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 such sum shall be allocated to the several towns in the proportion that the state valuation of each such town or part thereof served by the joint department bears to the state valuation in the whole 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 to so provide its proportionate share of such expense, such town shall forfeit its right to any further service by such joint department and shall forfeit any interest which it may have in any fire apparatus or equipment purchased by such joint committee. Such towns may at the time of organizing such joint department by agreement determine the terms upon which any town will be permitted to later withdraw from such cooperative enterprise and the disposition of the equipment and departmental assets jointly owned upon such withdrawal.

Sec. 9. Penalty for lighting or smoking pipe, cigarette, or cigar on premises contrary to notice. No person shall enter any premises with a lighted pipe, cigarette or cigar, or shall light or smoke any pipe, cigarette or cigar therein, if a notice in plain legible characters that no smoking is allowed therein is kept in a conspicuous position over or near each principal entrance into such premises; and whoever violates this provision or defaces, removes, or destroys such notice shall be subject to a fine of not exceeding \$5.

Sec. 10. Fires kindled on own land. Whoever for a lawful purpose kindles a fire on his own land, shall do so at a suitable time and in a careful and prudent manner; and is liable in an action on the case, to any person injured by his failure to comply with this provision.

Sec. 11. Fires kindled on land of another. Whoever kindles a fire on land not his own, without consent of the owner, shall be punished by a fine of not exceeding \$10. If such fire spreads and damages the property either of said owner or of 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 3 years.

Sec. 12. Penalty for kindling fire with intent to injure another. 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 \$1,000, or by imprisonment for not less than 3 months, nor more than 3 years.

Sec. 13. Lumber drivers and others may kindle necessary fires. 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 over night, licensed guides, or persons accompanied by licensed guides may kindle fires when necessary, but shall use the utmost caution to prevent them from spreading and doing damage, and if they fail to do so they are subject to all the foregoing liabilities and penalties as if said privilege had not been allowed. Nothing in the foregoing provisions shall be deemed to prevent the building of fires 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 beach, **provided** nevertheless that if any person kindling a fire on such camp or picnic ground or open sea beach shall fail to use the utmost caution to prevent such fires from spreading and doing damage, he is subject to the same lia-

bilities and penalties as provided in section 11, in the same manner as if said 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.

Sec. 14. Common law remedy not taken away; exception. 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 10 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 13; 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 act or neglect such fire is suffered to do damage, are liable, in an action on the case, for such damage.

Sec. 15. Towns may make ordinances respecting gunpowder and other dangerous substances; recovery of damages by sufferers from explosion; town officers may search for explosives. Cities and towns may make and enforce reasonable ordinances for the keeping or transporting from place to place of all gunpowder, petroleum, coal oils, burning fluids, naphtha, benzine, and all other explosives and illuminating substances, provided they are not inconsistent with the rules and regulations promulgated by the insurance commissioner.

A person injured in his person or property by the explosion or combustion of such articles in the possession of any person contrary to such ordinances or any rule or regulation promulgated by the insurance commissioner, has an action for damages against such possessor or against the owner if such owner is cognizant of such neglect or should, in the exercise of reasonable diligence, have been cognizant of such neglect.

Any fire inspector or municipal officer with a lawful search warrant may enter any building or other place in his town to search for such articles supposed to be unlawfully concealed there.

Sec. 16. Fire and building inspectors; appointment. In every town and city having an organized fire department the chief officer of such department shall serve as fire inspector. In every town and city of more than 2,000 inhabitants the municipal officers shall annually appoint a building 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 every town of 2,000 inhabitants or less, and in each village corporation if such corporation shall so vote at a meeting thereof, the municipal officers may annually appoint an inspector of buildings who may also be the fire inspector. In all cases where no fire inspector is appointed or is serving by virtue of his office in an organized fire department and in all cases where no building inspector is appointed the municipal officers shall be charged with all the powers and duties of fire and building inspectors as the case may be. The municipal officers shall determine the compensation to be paid fire inspectors and building inspectors.

Sec. 17. Qualifications. Every fire inspector appointed under the provisions of section 16 shall be a man who has knowledge of fire hazards and causes.

Every building inspector appointed under the provisions of section 16 shall be a man who has knowledge as to the proper and safe construction of buildings.

Sec. 18. Deputy fire and building inspectors. 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 said 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 become incapacitated or absent from duty in a town or city of more than 2,000 inhabitants, the municipal officers shall forthwith appoint a deputy inspector of buildings who shall perform the duties of said inspector of buildings during his absence or incapacity; and in any town of 2,000 inhabitants or less 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 such absence or incapacity, or such municipal officers shall be charged with all the powers and duties of such building inspector. The municipal officers shall determine the compensation of any deputy fire inspector or deputy building inspector.

Sec. 19. Duties of building inspectors. An inspector of buildings shall

inspect each new building during the process of construction or reconstruction and each building in which structural alterations and additions are being made, so far as may be necessary to see that said building when said construction is completed will be safe, that the type and nature of such construction conforms with any zoning laws, building laws, rules or regulations in force in such town or city, and that all proper safeguards against the catching and spreading of fires are used, that the chimneys and flues are made safe, that the electric wiring is safe, that proper fire stops are placed between the timbers in the walls and floorings where fire would be likely to spread and that all new heating installations, apparatus or appurtenances are of safe design and correctly installed. An inspector of buildings may give such directions in writing to the owner or contractors as he deems necessary, concerning such construction or installations so as to render the same safe and in conformance with any zoning laws or building requirements in force in such town or city; and if such owner or contractor shall thereafter continue such construction in violation of the directions given by said building inspector, any justice of the superior or supreme judicial court in term time or vacation may upon petition of said building inspector and after notice and hearing enjoin such owner or contractor or both from continuing such construction, structural alterations or additions, provided such court finds that such construction will be unsafe or in violation of the zoning or building laws, rules or regulations in force in such town or city. At least once each year the building inspector shall inspect all public buildings to ascertain whether they are structurally safe for the uses to which they are being put. He shall also make additional inspections in specific cases at the direction of the municipal officers.

Sec. 20. Duties of fire inspector. The fire inspector, at least once each year and oftener when required by the municipal officers, shall inspect all buildings and premises to ascertain the presence of fire hazards other than structural fire hazards and also to ascertain the presence of any other hazards subject to control or restriction under the provisions of any building ordinance in force in his city or town. Whenever any complaint is lodged by any person regarding the presence of fire hazards in any building or premises, he shall forthwith inspect such premises. Whenever such fire inspector finds in any building or upon any premises any inflammable substances, exits improperly maintained, or any other fire hazards, he shall forthwith order the same to be removed, remedied or abated, and such order shall be forthwith complied with by the owner or occupant of said buildings or premises, provided however that if the said owner or occupant shall deem himself aggrieved by such order he may within 24 hours

lodge an appeal to the insurance commissioner, and the cause of the complaint shall be at once investigated by the insurance commissioner, who shall, within 10 days after the filing of such appeal, render his decision thereon, and unless by his authority the order above named is modified or revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. The fire inspector shall make or cause to be made an immediate investigation as to the presence of combustible material or the existence of inflammable conditions or other fire hazards in any building or upon any premises under his jurisdiction upon complaint of any person having an interest in said building or premises or property adjacent thereto. Any owner or occupant of buildings or premises failing to comply with the orders of the authorities above specified shall be punished by a fine of not less than \$5 for each day's neglect. If such owner or occupant shall neglect to comply with said order for 7 successive days, 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 said premises and remove, remedy or abate such dangerous condition, and any person who wilfully obstructs such fire inspector or designated person from carrying out such order of the municipal officers shall be punished by a fine of not less than \$25. When in any case the insurance commissioner has original jurisdiction by law in the premises and issues orders or directions covering the removal, remedy or abatement of conditions found by him to be dangerous, his orders shall supersede any orders or directions given by any fire inspector, building inspector or municipal officers.

Sec. 21. Certain conditions to be reported to building inspector and fire inspector. Whenever any building inspector notes any of the conditions covered by section 20, he shall forthwith report the presence of the same to the fire inspector who shall forthwith investigate the same. Whenever any fire inspector finds any of the conditions described in section 19 he shall forthwith report said conditions to the building inspector who shall forthwith investigate the same.

Sec. 22. Service of directions in writing. 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 may either be given in hand to such owner or occupant or sent to the last and usual place of abode of such owner or occupant by registered mail with return receipt requested, or if there is no occupant of said premises and the whereabouts of the owner thereof is unknown, then by publication of such directions 3 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; provided that such directions shall be deemed given when actually received by said owner or occupant, or, in case of publication, on the date of the last publication.

Sec. 23. Inspectors and municipal officers may enter buildings to inspect. The fire inspector, inspector of buildings and the municipal officers of any city or town 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 a fire inspector, an inspector of buildings or the municipal officers to enter his building for the purpose of inspecting the same, or wilfully obstructs him in the inspection of such building as required by this chapter, shall be punished by a fine of not more than \$10, but each such refusal or wilful obstruction shall be construed as a separate offense.

Sec. 24. Insurance commissioner to act in cases of neglect. Whenever any building inspector, fire inspector, or the municipal officers of any town shall fail, refuse or neglect to inspect any building or premises concerning which complaint has been lodged, or to take necessary action to remove, remedy or abate any dangerous condition in any such building or premises for a period of 7 days after said complaint is lodged, the insurance commissioner shall, upon complaint of any person, cause said building or premises to be inspected and shall cause any dangerous condition found therein to be removed, remedied or abated, and in so acting shall have the same powers and shall act in the same manner as fire inspectors, building inspectors and municipal officers in such cases.

Sec. 25. Doors of public buildings to open outwards. In all buildings intended temporarily or permanently for public use there shall be available as exits in emergency a sufficient number of doors opening outward to adequately provide for the safety of the people using such building. The building inspector shall in each case designate the number of such doors required and shall base such requirements upon recognized standards establishing the ratio of area to occupancy. Every schoolhouse and every schoolroom therein shall have all doors intended for egress open outwards.

Sec. 26. Fire escapes for hotels, factories, places of amusement, tenement houses and school buildings. Every public house where guests are lodged, and every building in which any trade, manufacture or business is carried on, requiring the presence of workmen above the first story, and

all rooms used for public assembly or amusement, and all tenement houses 3 stories in height where only 1 stairway or means of egress from the upper stories of the building is provided, and all tenement houses of 4 or more stories in height, intended to be occupied by families, boarders, or lodgers, above the 3rd story, and all buildings used for school purposes, including school dormitories, 2 stories or more in height, shall at all times be provided with proper egresses or other means of escape from fire sufficient for the use of all persons accommodated, assembled, employed, lodged or resident therein. These egresses and means of escape shall be kept unobstructed, in good repair, and ready for use, and the sufficiency thereof shall be determined as provided in the following section.

Sec. 27. Inspection of fire escapes by building inspector. The building inspector shall annually make careful inspection of the precautions and safeguards provided in compliance with the foregoing requirements, and pass upon their sufficiency as to arrangement and number, and upon their state of repair, and direct such alterations, additions and repairs as he adjudges necessary. In event of refusal to comply with his directions the same procedure shall be followed as hereinbefore prescribed in cases of construction, reconstruction, structural alterations and additions which are unsafe, provided only that the owner of said premises shall in this case have 60 days within which to comply with the directions of said building inspector before he shall be deemed as refusing to comply with said order. Provided also that where such premises are used for any public purpose or purposes said building inspector may if he deems it necessary post notices in conspicuous places on said premises warning the public that said premises are unsafe and forbidding the public to enter upon said premises until said directions are complied with. Any person wilfully obstructing said officer from posting said notices or who shall deface or destroy any of said notices shall be punished by a fine of not less than \$10 for each such offense and any owner or occupant who permits the public to enter upon said premises for any public purpose or purposes after said notices have been posted shall be punished by a fine of not exceeding \$50.

Sec. 28. Towns may require certificates of sufficiency of safeguards. Any town or city may by ordinance require the occupant of any building to obtain not oftener than once each year a certificate of the building inspector that said premises have been inspected and that proper safeguards and precautions for escape in case of fire, or of alarm have been provided; and may impose a reasonable fee for such certificate to be paid by such occupant; and may require that said building inspector return to the clerk's

office of their town as often as such town may determine a list of such certificates by him issued which the clerk shall record in a suitable book; and may require that the certificate be posted in a conspicuous place on said premises; and may provide suitable penalties for failure to procure such certificate.

Sec. 29. Fire inspectors to inform insurance commissioner. All fire inspectors shall furnish the insurance commissioner with such information as he may require and shall perform such inspections as the insurance commissioner may direct. When property is destroyed or damaged the fire inspector or if there be none then the municipal officers shall immediately notify the insurance commissioner of the same, and shall investigate the cause, circumstances, and origin of the fire, and especially examine whether it was the result of accident, carelessness, or design. The investigation shall be commenced within 3 days after the occurrence of the fire, and the insurance commissioner may supervise and direct such investigation whenever he deems it expedient or necessary.

Sec. 30. Statement of facts relating to cause of fire to be filed; record open to public. When the fire inspector or municipal officers as the case may be have completed their investigation, which shall be within 2 weeks after the occurrence of the fire, they shall immediately file with the insurance commissioner a written statement of all facts relating to the cause, circumstances, and origin of the fire; kind, value, and ownership of the property destroyed or damaged, and such other information as may be required by said commissioner. The insurance commissioner may if he sees fit order that further investigation be continued. The insurance commissioner shall make a record of all fires so investigated together with all facts connected therewith. Such record shall at all times be open to public inspection, and such portions of it as said commissioner deems expedient shall be published in his annual report to the governor and council.

Sec. 31. Investigation of forest fires; prosecution; report to forest commissioner. Fire inspectors or municipal officers as the case may be shall proceed immediately to a strict inquiry and investigation into the cause and origin of forest fires; and in all cases where such fires are found to have originated from the unlawful act of any person, to cause the offenders to be prosecuted without delay. If such forest fire shall be more than 1 acre in extent, they shall within 1 month after said fire 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 cord-

wood, 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 reports shall be furnished by the forest commissioner at the expense of the state.

Sec. 32. Penalty for town officers' neglect. Every municipal officer, fire inspector or building inspector who after knowledge of any situation delineated in the preceding sections refuses or neglects to perform the duties imposed upon him shall be punished by a fine of not more than \$50.

Sec. 33. Upon complaint commissioner of labor or insurance commissioner to make investigation. Whenever it comes to the knowledge of the commissioner of labor or to the insurance commissioner, or if complaint is made to such commissioner of labor or to the insurance commissioner by any citizen of the state, that any building inspector, fire inspector, or municipal officers have failed and refused to comply with any provisions of the preceding sections or perform the duties imposed upon them in the preceding sections, the commissioner of labor or the insurance commissioner shall at once proceed to investigate such complaint, and if sufficient evidence can be obtained, he shall at once institute proceedings against such officer, and the county attorney shall prosecute the same.

Sec. 34. Forest fire wardens; who shall serve, duties and authority; compensation; penalty for refusing to assist; damages in case of 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 the rate not exceeding that paid for their other official services. Whenever a 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 said operations. All such persons shall receive such compensation, not exceeding 30c per hour, as said municipal officers may determine, and they shall be provided with subsistence during said service, the same to be paid 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 valuation for

purposes of taxation. If any person so ordered to assist and not excused from said service by said 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 negligence or neglect of said 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 to the amount of his damages so sustained not to exceed 2% of the valuation of said town.

Sec. 35. Municipal examiners of steam engineers and firemen; appointment of. The municipal officers of cities having a population of over 40,000 inhabitants shall annually in the month of April, or as soon as practical thereafter, appoint a commissioner of steam engineers and firemen who has had not less than 5 years' practical experience operating boilers and engines.

Sec. 36. Operators to obtain certificates of competency; application; exemption. In any city having over 40,000 inhabitants it shall be unlawful for any person or persons to operate a steam plant consisting of boiler and engine where the services of an engineer or fireman are required without first obtaining a certificate of competency from said examiner; sections 35 to 42, inclusive, shall not apply to dwelling houses, apartment houses and buildings where the steam plant is used for heating purposes only.

Any person intending to operate a steam plant except as herein provided shall make application in writing to the city clerk, who will notify him in writing when to appear for examination.

Sec. 37. Licenses graded; qualifications and exemptions. Licenses shall be graded under the preceding section as follows:

First grade, horse-power unlimited.

Second grade, limited to 500 horse-power.

Third grade, limited to 200 horse-power.

Special grade, limited to engineers and firemen operating some special steam plant, and to night engineers and firemen, and to engineers handling donkey, hoisting, and steam roller engines. A special license shall state for what purposes such license is issued and the location of the plant.

An engineer or fireman who has been granted a 2nd grade certificate

may operate a plant as specified in the 1st grade under direction of an engineer or fireman who has been granted a 1st grade certificate, and an engineer or fireman who has been granted a 3rd grade certificate may operate a plant as specified under the 2nd grade under direction of an engineer or fireman who has been granted a 2nd grade certificate. All persons holding engineer's or fireman's licenses, issued by the United States Local Inspectors of Steam Vessels shall be exempt from the provisions of sections 35 to 42, inclusive, and said sections shall not apply to buildings owned by the United States government.

Sec. 38. Examination; form of certificate; original filed with clerk; certified copy furnished applicant; disposition of fee. An examiner's fee of \$2 for every person making application under the provisions of sections 36 and 37 shall be paid to the city clerk when application is made. It shall be the duty of the city clerk to forward all applications to the examiner. The examiner shall examine all applicants in writing, and shall issue a certificate in the following form, if the applicant is of temperate habits and has suitable competency:

"STATE OF MAINE.

This is to certify that _____, having made application to the city clerk for permission to take charge of and to operate a steam plant, and having produced evidence of his competency to act in said capacity as _____, I have issued to him his certificate as approved by law this _____ day of _____."

Said certificate when issued shall be filed in the office of the city clerk and said clerk shall issue and deliver to said applicant a duly attested copy of said certificate; and the copy so issued shall be posted by the holder thereof in a frame under glass in a conspicuous place in or near the boiler room of the steam plant to be operated.

The city clerk shall pay the examiner the sum of \$1.75 out of the fee of \$2 deposited with him for that purpose, retaining the sum of 25c as payment for the attested copy issued by said city clerk.

Sec. 39. Term of certificate. The term of certificate granted under the preceding sections shall be 1 year from date granted unless revoked as hereinafter provided.

Sec. 40. Renewal of license; procedure; applicant entitled to hearing when refused renewal; duplication in case of loss. When an engineer or

fireman shall apply for a renewal of his license for the same grade granted under the provisions of the preceding sections the presentation of the attested copy of the original certificate shall be considered sufficient evidence of his title to renewal, which certificate shall be retained by the examiner upon the official files as the evidence upon which the license was renewed, and a new certificate shall be issued upon the payment of a fee of \$1, unless such license shall be forfeited or unless facts shall have come to the knowledge of the examiner which would render a renewal improper. In such case the applicant shall be entitled to a hearing before the examiner. In case of loss or destruction of applicant's certified copy of his license, the city clerk shall by direction of the examiner, issue to the applicant a duplicate attested copy, upon payment of a fee of 25c.

Sec. 41. Incompetency; holder of certificate entitled to hearing; license may be revoked when charge sustained; notice to owners of plant; temporary operator. When the examiner receives notice in writing signed by 10 or more residents of the city or town where the steam plant in question is located stating that in their opinion the person in charge of such steam plant is incompetent to discharge his duties, or by reason of negligence, intemperance, or other cause, such person ought not to longer remain in charge of such steam plant, the said examiner may temporarily suspend the authority of such person to act in said capacity until the investigation and hearing as herein provided can be made, provided however, that said certificate shall not be permanently revoked until the said examiner shall have given a hearing to the person against whom a complaint has been filed, and shall have given him a written copy of said complaint at least 48 hours before said hearing is to be held. Said examiner shall immediately cause an investigation to be made as to the habits and qualifications of the person complained of; and if such person is found to be incompetent to remain in charge of said steam plant, said examiner shall cause the certificate granted under the provisions of sections 35 to 42, inclusive, to be revoked, and notice of such revocation shall be filed with the city clerk; if the examiner shall after hearing revoke said license he shall then give the person or corporation having control of such plant notice of his findings. If after the receipt of such notice the person or corporation having control of such steam plant shall neglect or refuse to cause said steam plant to be placed in charge of some person qualified under the provisions of sections 35 to 42, inclusive, within a reasonable time thereafter, such person or corporation shall be subject to the penalties provided in section 43. The person or corporation in control of a steam plant, in case of sickness, emergency, or other good and sufficient reason, may temporarily employ

some competent person, not holding a license as herein provided, to operate said plant for a period not exceeding 2 weeks.

Sec. 42. Persons operating steam plant for 1 year exempt from examination. Any engineer or fireman in a city of over 40,000 inhabitants who has operated a steam plant for 1 year and who shall produce satisfactory evidence of the same, shall be entitled to a license to operate a steam plant of the same or lower grade without examination, upon payment of the fees prescribed for the granting of licenses by examination, and any engineer or fireman who now holds a license shall be entitled to receive a renewal of the same without examination.

Sec. 43. Penalty for violations of §§ 35-42, inclusive. Whoever violates any provision of sections 35 to 42, inclusive, shall be punished by a fine of not more than \$50.

Sec. 44. Unsafe buildings to be inspected; procedure. When any building in a town by reason of being burnt, dilapidated or 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 city, or otherwise, cause an inspection of said premises to be made by the fire inspector if any has been appointed and the building inspector if any has been appointed. If there be no fire inspector or building inspector in said town, said municipal officers shall forthwith inspect said premises. The fire inspector and building inspector, if any there be, shall within 24 hours after said inspection file with the clerk of said town a certificate in writing setting forth their findings as to the condition of said premises, which said certificates shall also set forth their estimate of the repairs or alterations necessary to render said building safe and whether said repairs and alterations will exceed 50% of the fair market value of said building. 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 said condition to continue for a period of 7 days, said municipal officers shall forthwith inform the insurance commissioner of said dangerous condition and said emergency, and said insurance commissioner shall forthwith cause said premises to be inspected, and if said insurance commissioner determines that an

emergency exists which must be remedied immediately, he shall make an order setting forth what must be done to render said premises temporarily safe pending further hearing and said municipal officers shall proceed forthwith to execute said order.

Sec. 45. Procedure when buildings are found to be unsafe. If the municipal officers or the insurance commissioner determine that no immediate emergency exists or if after execution of such orders as the insurance commissioner may make the municipal officers shall determine that something further must be done to assure the permanent safety of said building, the municipal officers shall in writing direct what repairs or alterations shall be made by the owner to render said building safe, provided the estimated cost of such repairs or alterations does not exceed 50% of the fair market value of said building. If the estimated cost of such repairs or alterations would exceed 50% of the fair market value, then said municipal officers shall direct said owner to demolish said building. Such directions in writing shall be delivered to said owner either in hand or by giving the same to an occupant or tenant of said premises or by mailing the same to said owner by registered mail return receipt requested at his last and usual place of abode, or if there be no occupant or tenant of said premises and the whereabouts of said owner be unknown, then by publishing said directions for 3 weeks successively in a daily newspaper published in the county where said premises are located, or if no such paper, then in the state paper. Said owner shall have 7 days after delivery of said notice within which to comply with said directions, and he shall be deemed in compliance if he has begun the work before said 7 day period expires and such work is continuing uninterruptedly.

Sec. 46. Action by municipal officers when owners have not complied with provisions in preceding sections. If at the expiration of said 7 day period such owner has not begun to comply with said directions, said municipal officers may cause said building to be altered or repaired if the estimated cost thereof is less than 50% of the fair market value of said premises or may cause said building to be torn down or demolished if the estimated cost of such repairs exceeds 50% of the fair market value of said building. The cost of any work done by the municipal officers in altering, 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 said 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

said town the expense thereby incurred, a special tax may be assessed by the assessors of taxes against the land on which said 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 said town, for collection, and shall be collected in the same manner as state, county and municipal taxes are collected.

Sec. 47. Petition to superior court provided for. On application of the owner filed with the clerk of said town at any time prior to the expiration of said 7 day period, the municipal officers shall hold a hearing at which said owner may appear and show cause why the directions of said municipal officers should be amended or repealed and thereafter the municipal officers shall affirm, modify or repeal their directions to said owner. On petition of said owner any justice of the superior or supreme judicial court in term time or vacation upon such notice as said court shall order and after hearing may enjoin such municipal officers from proceeding with the repair or demolishing of said building or may make such other orders as may be deemed necessary with regard to the repair or demolishing of said building and such orders of the court shall be binding upon said owner and said municipal officers and upon such other persons as may be made parties thereto. Said court may if it finds that said building has been demolished wholly or in part or the value thereof has been impaired by said municipal officers or persons acting under their direction to an extent inconsistent with the necessity of rendering said building safe for the occupants or the public, determine what compensation should be paid therefor by said town to said owner and order the payment of the same; and said court may assess the costs of said proceeding against either party or apportion the costs among the parties, but any costs assessed against said owner may be collected by said town as a part of the next regular tax levy against said owner. Said court may if it sees fit extend the time within which said 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.

Sec. 48. Complaint may be filed with insurance commissioner; proceedings. If in any case the municipal officers shall fail to act upon any complaint filed with the clerk of such town or city for a period of 7 days after the filing of said complaint, the complainant may file the same complaint with the insurance commissioner, in which case the insurance commissioner shall proceed forthwith to act in the premises and shall pursue the methods set forth in the 5 preceding sections and shall be vested with all the powers and duties of such municipal officers. If on complaint, the

insurance commissioner finds that an emergency exists and that said municipal officers have refused to act in the premises, he may proceed even before the expiration of said 7 day period to take such action as may be required by such emergency.

Sec. 49. Contents of building which has to be demolished; disposition and sale. Whenever it shall be necessary to demolish any building under the preceding sections, in which such building furniture or other chattels or personal property is lodged or stored, the municipal officers, or the insurance commissioner in all cases where he is acting in their stead, shall notify in writing the owner of such personal property, or if he be unknown then the owner of said premises, of the necessity of removing such contents from said building before such building 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 insurance commissioner as the case may be shall cause said contents to be removed and stored but neither such municipal officers, insurance 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 as provided 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 of 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 is provided in section 34 of chapter 163.

Sec. 50. Commissioner may examine into cause and origin of all fires; to take testimony on oath; if evidence is sufficient, to cause arrest of any person accused. The insurance commissioner may, whenever he deems it expedient or advisable, examine or cause to be examined, the cause, cir-

cumstances, and origin of all fires occurring in the cities and towns within the state, of which he has knowledge, by which property is damaged or destroyed, and may specially examine and decide whether the same was the result of carelessness or design. The insurance commissioner shall, when in his opinion said 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 as to which such examination is made, and may cause the same to be reduced to writing. If he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson or incendiarism, 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.

Sec. 51. Witnesses may be compelled to attend hearing, and give testimony under oath; penalty for false swearing; commissioner may enter any building when fire is in progress; investigations may be private. The insurance commissioner, the deputy insurance commissioner, and the municipal officers of cities and 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 sections 29, 30 and 50 a subject of inquiry and investigation, and to compel the production of all books, records, documents and papers pertaining to said subject of inquiry and investigation. Said insurance commissioner, deputy insurance commissioner, and municipal officers may also administer oaths and affirmations to persons appearing as witnesses before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. Said insurance commissioner and his subordinates shall have authority, 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 has occurred, and other buildings or premises adjoining or near the same. All investigations held by or under the direction of the insurance commissioner, deputy insurance commissioner, or the municipal officers may in their discretion be private, and persons other than those required to be present by the provisions hereof may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from one another and not allowed to communicate with one another until they have been examined.

Sec. 52. Insurance commissioner may incur expense for investigators

and inspections. The insurance commissioner may employ such persons as state fire investigators and may incur such expense as may be necessary to carry out his duties in investigating or causing to be investigated the origin of fires and the inspection of buildings and property. Every fire insurance company or association which does business or collects premiums or assessments in the state shall pay to the department of insurance 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. Said funds shall be used solely to defray the expenses of such investigations and inspections and are hereby appropriated for such purposes.

Sec. 53. Definition of "town", and "municipal officers". The word "town" as used in this chapter shall, in all cases, include cities, towns, plantations and village corporations, unless otherwise specifically set forth. In the case of village corporations, the municipal officers as referred to in this chapter shall be deemed to be the assessors thereof.'