

MAINE STATE LEGISLATURE

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N I N E T Y - S E C O N D L E G I S L A T U R E

Legislative Document

No. 429

H. P. 816

House of Representatives, February 7, 1945.

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Payson of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-FIVE

AN ACT to Revise the Fire and Safety Laws.

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

ARTICLE I.

R. S., c. 85, §§ 1-59, repealed and replaced. Sections 1 to 59, inclusive, of chapter 85 of the revised statutes are hereby repealed and the following enacted in place thereof :

Sections 1-47 Fire and Safety Laws.

Sections 48-57 Licensing of Steam Engineers and Firemen.

Fire and Safety Laws

Sec. 1. Definitions. The word "town" as used in sections 1 to 46, inclusive, shall, in all cases, include cities, towns, organized plantations and village corporations.

The municipal officers of plantations and village corporations as referred to in sections 1 to 46, inclusive, shall be deemed to be the assessors thereof.

The county commissioners shall have the powers and duties of municipal officers for the purposes of sections 1 to 46, inclusive, in the unorganized territory.

The word "commissioner" as used in sections 1 to 46, inclusive, unless otherwise expressly stated, shall mean the insurance commissioner.

The word "board" as used in sections 1 to 46, inclusive, shall, unless otherwise expressly stated, mean the board of public safety.

The words "public buildings" as used in sections 1 to 46, inclusive, 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 2 families, lodging houses, hotels, hospitals, convalescent homes, theaters and dance halls.

The words "places of public assemblage" as used in sections 1 to 46, inclusive, 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 sections 1 to 46, inclusive, shall mean the population of the governmental unit referred to according to the most recent federal census.

Sec. 2. Insurance commissioner ex officio state fire marshal; duties. The insurance commissioner 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 the provisions of sections 1 to 46, inclusive, and the regulations promulgated thereunder.

Sec. 3. Second and 3rd deputies provided for; duties. The commissioner shall, in accordance with the provisions of chapter 59 appoint or

remove, in addition to the deputy provided for by section 2 of chapter 56, a 2nd and/or 3rd deputy who shall respectively exercise the powers and duties hereinafter prescribed.

The 2nd 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 3rd 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 5 citizens of the state, 1 of whom shall be an architect, 1 a building contractor, 1 an insurance engineer, 1 a person having had at least 5 years' experience as an officer of an organized fire department, and 1 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 5 years, except that at the time of first appointment of such board 1 member shall be appointed for 5 years, 1 member for 4 years, 1 member for 3 years, 1 member for 2 years, and 1 member for 1 year, so that thereafter 1 member will be appointed annually for a term of 5 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 1 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 \$10 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 3 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 1 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:

I. construction of all new buildings and additions to or alterations of existing buildings;

II. all existing public buildings;

III. all places of public assemblage;

IV. all school buildings, including provisions for compulsory fire drills, such regulations to be first submitted to the commissioner of education for suggestion and recommendation;

V. 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;

VI. the operation of commercial motion picture projectors;

VII. all electrical installations, except

A. minor repair work, replacements of lamps and the connection of portable devices to suitable receptacles which have been permanently installed;

B. 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;

C. 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;

D. 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;

E. 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 chapter 74;

VIII. 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 subsections I and II 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 to 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 \$10 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.

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 V 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 1 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 3 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 3 daily newspapers published in the state, 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 30 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 citi-

zens, 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. 8. Penalties; violation of regulations; continuing violations; 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 more than \$500, or by imprisonment for not more than 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 more than \$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 26 of chapter 37.

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 more than \$100.

Any articles kept or transported in violation of the provisions 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 the provisions of sections 1 to 46, inclusive, 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 1 week prior to the date of such hearing. The commissioner or his said deputy shall, with at least 2 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 \$5, 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 petrol-

eum products; provisions of section 83 to chapter 80 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 except as expressly limited by the provisions of sections 1 to 46, inclusive. 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.

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 25c 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 3,200 gallons, the use, storage or sale of larger quantities thereof and all transportation thereof being subject exclusively to state regulation.

Nothing in sections 1 to 46, inclusive, shall be construed as diminishing the authority of towns to enact regulations under the enabling acts contained in section 83 of chapter 80 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 sections 1 to 46, inclusive, 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 7 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 regu-

lation. 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 more than \$100 and by an additional fine of not more than \$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 reconstruction, 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 sea-

sonably 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 more than \$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 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.

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 sections 1 to 46, inclusive, 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 \$10 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 more than \$100. 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 of the provisions of sections 1 to 46, inclusive, 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 punished by a fine of not more than \$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 authority, at all times of the day or night, in the performance of the

duties imposed by the provisions of sections 1 to 46, inclusive, 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 or 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 1 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 commissioner 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 insurance commissioner 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. Union fire departments; regulation by joint committee; committee proxy; budget allocation; appropriation by towns; forfeiture for non-appropriation; agreements for withdrawal. Any two 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 mem-

bers 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. 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 jointly owned upon such withdrawal.

Sec. 29. 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 volun-

teer, 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. 30. 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 more than \$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. 31. 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 2 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. 32. 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% 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 treasurer of state in favor of such town for the amount of such excess. The sums necessary therefor are hereby appropriated from the general fund 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 more than \$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. 33. 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 more than \$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. 34. 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 more than \$10. 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 obtained, 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. 35. 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 34, shall be punished by a fine of not more than \$10. 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 3 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. 36. 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 \$1,000, or by imprisonment for not less than 3 months, nor more than 3 years.

Sec. 37. 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 35, 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 3 persons in camping, fishing or hunting.

Sec. 38. 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 the provisions of section 34 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 37; 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. 39. 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. 40. Plundering at fires declared larceny. Whoever takes, carries away, or conceals any property not his own, at a fire, or exposed by reason thereof, and does not give notice of it to the owner or to a fire inspector or a member of an organized fire department shall be deemed guilty of larceny and punished accordingly.

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 more than \$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.

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.

II. Permanent orders for repairing or demolition; method of giving; time for compliance; extension. If the municipal officers or the commissioner determines 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.

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.

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.

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 4 preceding subsections 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.

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 more than \$100 and by an additional fine of not more than \$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 provisions of 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 173. 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 173.

Sec. 45. Lighting or smoking pipe, cigarette, or cigar in mills, shipyards, etc., contrary to notice; penalty. No person shall enter any mill, millyard, factory, machine shop, shipyard, covered bridge, stable, or other building with a lighted pipe, cigarette, or cigar, or shall light or smoke any pipe, cigarette, or cigar therein under a penalty of \$5, 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 to such building or place; and whoever defaces, removes, or destroys such notice forfeits \$10. Penalties provided in this section may be recovered by complaint, indictment or action of debt $\frac{1}{2}$ to the town where the offense is committed, and $\frac{1}{2}$ to the prosecutor.

Sec. 46. Limitation. All existing ordinances or by-laws of a town regulating any of the same subject, as is or may be governed by regulations promulgated by the commissioner under the authority of sections 1 to 45, inclusive, shall be applicable in such town until state regulations shall have become applicable thereto.

Sec. 47. Effective date. The provisions of sections 1 to 45, inclusive, and of Articles II and III of this act shall become effective on October 1, 1945.

Article II.

R. S., c 85, §§ 60-69, renumbered. Sections 60 to 69, inclusive, of chapter 85 of the revised statutes are hereby renumbered as sections 48 to 57, inclusive.

Article III.

Sec. 1. R. S., c. 32, § 68, repealed. Section 68 of chapter 32 of the revised statutes is hereby repealed.

Sec. 2. R. S., c. 32, § 70, amended. The 1st sentence of section 70 of chapter 32 of the revised statutes is hereby amended to read as follows: 'When any person, firm, corporation, or agent shall have failed to dispose of slash and debris as provided by the ~~2~~ preceding ~~sections~~ section, the commissioner shall notify the owner of the land of the requirement of this statute, and if such owner, within a reasonable time, shall fail to destroy or remove such slash or debris, such commissioner shall cause such slash and debris to be so disposed of.'

Sec. 3. R. S., c. 32, § 71, repealed. Section 71 of chapter 32 of the revised statutes is hereby repealed.

Sec. 4. R. S., c. 33, § 51, repealed. Section 51 of chapter 33 of the revised statutes is hereby repealed.

Sec. 5. R. S., c. 37, § 22, repealed. Section 22 of chapter 37 of the revised statutes is hereby repealed.

Sec. 6. R. S., c. 88, §§ 65-71, repealed. Sections 65 to 71, inclusive, of chapter 88 of the revised statutes are hereby repealed.

Sec. 7. R. S., c. 88, § 72, amended. Section 72 of chapter 88 of the revised statutes is hereby amended to read as follows:

'Sec. 72. County commissioners to exercise powers of municipal officers in unincorporated places, and counties to exercise rights of towns. County commissioners, within their counties, and counties, within their limits, shall respectively exercise over unincorporated places all the powers of municipal officers and towns under the provisions of sections 52 to ~~72~~ 64.'

Sec. 8. R. S., c. 88, § 166, amended. Section 166 of chapter 88 of the revised statutes is hereby amended by adding at the end thereof the following:

'The provisions of this section shall be deemed repealed when state regulations promulgated pursuant to the provisions of sections 1 to 45, inclusive, of chapter 85, and covering the same subject matter shall become effective.'

Sec. 9. R. S., c. 103, § 5, amended. The last sentence of section 5 of chapter 103 of the revised statutes is hereby repealed and replaced to read as follows:

'Firemen of either organized or independent fire departments are excused from serving as jurors in any court.'

Sec. 10. R. S., c. 124, §§ 19, 20, repealed. Sections 19 and 20 of chapter 124 of the revised statutes are hereby repealed.

Sec. 11. R. S., c. 128, §§ 22-27, repealed. Sections 22 to 27, inclusive, of chapter 128 of the revised statutes are hereby repealed.