

By Mr. Kingston of Springfield, petition of Frank Foster and William J. Kingston for right of appeal for policemen, fire fighters and certain persons assisting police officers who are aggrieved by the failure of municipalities of fire and water districts to provide indemnification for expenses and damages sustained by said persons. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Nine.

AN ACT PROVIDING FOR THE RIGHT OF APPEAL FOR POLICE OFFICERS, FIREMEN AND CERTAIN PERSONS ASSISTING POLICE OFFICERS AGGRIEVED BY THE FAILURE OF A CITY, TOWN, FIRE OR WATER DISTRICT TO PROVIDE ADEQUATE INDEMNIFICATION FOR EXPENSES AND DAMAGES SUSTAINED THEREBY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 41 of the General Laws is hereby amended by striking
2 out section 100, as most recently amended by chapter 267 of
3 the acts of 1958, and inserting in place thereof the following
4 section:—

5 *Section 100.* A city, town, fire or water district shall in-
6 demnify, **within ninety days after a request in writing,**
7 a police officer, fireman or a member of the fire department or a
8 person required to assist a police officer in the discharge of his
9 duties, to **[an] a reasonable** amount **[not more than the**
10 **amount]** recommended by the board or officer authorized to
11 appoint police officers, firemen or members of the fire depart-
12 ment of such city, town or district, for expenses or damages
13 sustained by him while acting as a police officer, fireman or
14 member of the fire department or as such assistant, or incurred
15 by him in the defence or settlement of an action brought against
16 him for acts done by him while so acting, and such damages
17 shall include loss of pay by reason of absence from duty on the
18 part of such officer, fireman or member because of temporary

19 incapacity caused by injury suffered through no fault of his
20 own while in the actual performance of duty; and, if such officer,
21 fireman, member or person be dead, such expenses or damages
22 shall be payable to his widow, or, if he leaves no widow, then to
23 his next of kin who, at the time of his death, were dependent upon
24 his wages for support. For the purposes of this section, call
25 firemen and volunteer firemen shall be considered members of
26 a fire department. No authority relative to the determina-
27 tion of the amount to be paid to any fireman or member of the
28 fire department or any police officer or person required to assist
29 a police officer, or to the widow or dependents of any such fire-
30 man, member, officer or assistant, shall be exercised pursuant
31 to the provisions of this section in the event that insurance pro-
32 viding indemnity for, or protection to, such fireman, member,
33 officer or assistant was in effect under authority of clause (1) of
34 section five of chapter forty at the time when the expenses or
35 damages for which indemnification is sought were sustained,
36 unless and until all rights under such insurance in favor of said
37 city or town or person entitled to indemnification shall have been
38 exercised, determined and satisfied. This section shall be con-
39 strued to require a city or town to pay compensation, in the
40 manner herein provided, for damages for personal injuries,
41 whether or not death results, and for property damage sustained
42 by a person while assisting a police officer thereof in the discharge
43 of his duty upon his requirement. This section shall also be
44 construed to require a city, town or district to indemnify, in the
45 manner and to the extent herein provided, any police officer or
46 fire fighter who is assigned to special duty by a superior officer
47 for expenses or damages sustained by such member in the per-
48 formance of such duty, whether such member is paid for such
49 special duty by the city, town or district, or otherwise.

50 The city of Boston shall also indemnify a member of its police
51 or fire force, or a person required to assist a member of its police
52 force in the discharge of his duties, to the extent and in the
53 manner herein provided, for expenses or damages incurred by
54 him in the defence or settlement of a claim against him for acts
55 done by him while acting as such member or assistant; but said
56 city shall not indemnify under this section for expenses or dam-
57 ages incurred in the defence or settlement of any action or any
58 claim unless the defence or settlement of such action or claim
59 shall have been made by the corporation counsel of said city.

60 In any city which by ordinance shall so provide, the powers
61 vested, and duties imposed, by this section upon the board or
62 officer authorized to appoint police officers, firemen or mem-
63 bers of the fire department of such city shall be exercised and
64 performed by a majority of the members of a panel consisting
65 of (a) such officer or the chairman of such board, (b) the city
66 solicitor or other officer having similar duties or a person desig-
67 nated in writing by such solicitor or officer to act for him, and
68 (c) such physician as the city manager or, if there is none, the
69 mayor shall in writing appoint.

70 **Any person aggrieved by the amount recommended by**
71 **the board or by the failure of such board or officer to**
72 **make such recommendation within ninety days, may**
73 **appeal to the superior court sitting in equity for the**
74 **county where he resides; provided, that such appeal is**
75 **filed in said court within fifteen days after such recom-**
76 **mendation is made. The court shall hear all pertinent**
77 **facts, and determine the facts, and, upon the facts as so**
78 **determined, make such decree as justice and equity may**
79 **require, the foregoing remedy shall be exclusive, but the**
80 **parties shall have the right of appeal and exception as in**
81 **other equity cases.**

The first part of the report is devoted to a general
 description of the country and its resources. It
 is followed by a detailed account of the
 various industries and occupations of the
 people. The report then proceeds to a
 description of the climate and the
 diseases which prevail in the country.
 It concludes with a list of the
 principal towns and cities, and a
 description of the principal rivers and
 lakes.

The second part of the report is devoted to a
 description of the principal towns and cities.
 It begins with a description of New York
 City, and then proceeds to a description of
 Albany, Buffalo, and other principal
 towns. It concludes with a description of
 the principal rivers and lakes of the
 country.