

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

closure commissioner, judge of probate, register of probate, judge of a municipal court, etc., we feel that the same rule applies to all persons defined as "magistrate".

JAMES G. FROST
Assistant Attorney General

October 10, 1951

To Marion E. Martin, Commissioner of Labor and Industry

Re: Boilers

Your memo relative to Section 64 of Chapter 25, R. S. 1944, has been received.

Section 64 exempts certain types of boilers from the application of Sections 51 to 65 of Chapter 25, one exemption being

" . . . or to steam heating boilers which carry pressures not exceeding 15 pounds per square inch, constructed and installed in accordance with the rules adopted by the board of boiler rules; . . . "

You state that since the effective date of this section, 1935, no such rules have been adopted, that your staff is insufficient to inspect the thousands of such boilers if the rules were adopted, and that, similarly, you have insufficient funds to carry out the purpose of the section.

You then ask if you are derelict in your duty in having failed to adopt such rules. Our answer, of necessity, is, "Yes." The problems you pose of lack of personnel and lack of funds to carry out the program are, of course, administrative problems, and do not vary our answer.

You also ask if in low-boiler rules provision can be made that such rules would not apply to private residences and/or other categories.

The statute has already attempted to exempt certain boilers from the application of Sections 51-65, Chapter 25, and with respect to boilers carrying pressures not exceeding 15 pounds per square inch, they too are exempt only if you adopt rules relative to their construction and installation, and the boilers are accordingly installed.

It is our opinion that a further classification of boilers carrying pressures not exceeding 15 pounds is not consistent with the law. Certain classifications having been made, or specifically enumerated exemptions set out, further classification is for that reason precluded.

It is our opinion also that Section 62, Chapter 25, does not permit an inspection charge to be made, in the event rules are adopted, Section 64 exempting such boilers from the application of this section.

JAMES G. FROST
Assistant Attorney General

October 17, 1951

To Marion E. Martin, Commissioner of Labor and Industry

Re: Statistics

Your memorandum of October 15th makes inquiry whether the wording

of Sections 2 and 3 of Chapter 25, R. S. 1944, is broad enough to cover all types of industries within the State, non-manufacturing in general and contract construction in particular.

Section 2 recites:

“The department shall collect, assort and arrange statistical details relating to all departments of labor and industrial pursuits in the state. . .”

The inclusion of the words “all departments” in this sentence is not a limitation and the wording of the section is broad enough to cover all types of industries.

Your second question is if you may invoke through proper court action the penalties provided in Section 9.

Penalties for non-compliance with this statute may be invoked through proceedings in municipal courts in the localities where the violations occur.

NEAL A. DONAHUE
Assistant Attorney General

October 30, 1951

To Honorable Frederick G. Payne, Governor of Maine
Re: Tax Collector and Selectmen

. . . As you know, the general conduct of town affairs is not, properly speaking, a matter to be handled by State officials, as there are but few circumstances which will authorize any intervention in town affairs by State officers as such.

Usually in matters of this kind I advise the persons who are seeking information to consult with an attorney of their own choosing or with any attorney usually employed by the town to advise the town as to legal matters or to present their problems to the Maine Municipal Association, particularly if the town is a member of the Association. I have been informed by officials of the Association that, even if a town is not a member, they will not refuse to give such advice as they can.

The law provides that the treasurer and collector of taxes of a town may be one and the same person, but that such officers shall not be selectmen or assessors until they have completed their duties and had a final settlement with the town. This principle is clearly stated on page 88 of Volume 1 of Sullivan's *Maine Civil Officer*. As a matter of fact, Chapter 4 of the *Maine Civil Officer* is entirely devoted to the collection of taxes and is generally used by town officers as their “Bible”, so to speak, with respect to tax collection problems.

. . . I know of no provision of law authorizing action by State officials to investigate town affairs as such. Section 116, the second paragraph thereof, of Chapter 80 of the Revised Statutes provides for an audit by the State Department of Audit upon petition by 10% of the legally qualified voters of any town. . . If there is any question as to the legality of contracts made by the selectmen with the town, here again the law provides for action by the