

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calendar years
1951 - 1954

December 28, 1953

To Col. Harry A. Mapes, Director, Civil Defense & Public Safety
Re: Loyalty Oaths

We are in receipt of your memo of December 10, 1953, in the following tenor:

"A man and his wife who are both Canadian citizens have been and are now members of a Ground Observer Corps Post here in Maine doing a reliable job, both from the standpoint of performance and character — (1) Must these Canadians sign a loyalty oath? If so, in what form so as not to affect their Canadian citizenship? (2) Can they continue as observers without signing the oath?"

Section 14 of Chapter 298 of the Public Laws of 1949 reads as follows:

"Each person who is appointed (to any capacity in any Civil Defense and Public Safety organization established under the provisions of this chapter) shall, before entering upon his duties, take an oath . . . substantially as follows . . ."

We interpret the above quoted section of the law to make it mandatory upon those who are appointed to such positions to take an oath substantially the same as that set out in Section 14. We cannot conceive how a Canadian can take such an oath or a substantially similar oath without prejudicing or renouncing his Canadian citizenship.

While we appreciate the services of those Canadians who are performing an adequate function in the Civil Defense set-up, we cannot reconcile their remaining in such service without taking an oath. The statute contemplates an oath on the part of every person, and because there is a person who is not a citizen working for your agency, we do not think an exception should be made.

JAMES G. FROST
Deputy Attorney General

December 29, 1953

To Harlan H. Harris, Controller
Re: Electricians Examining Board — Per Diem

Chapter 307 of the Public Laws of 1953 establishes an Electricians Examining Board, the membership of said board being comprised of an executive secretary who shall be either the Insurance Commissioner or a representative from the Insurance Department delegated by the Insurance Commissioner, and four other members to be appointed by the Governor with the advice and consent of the Council.

The last sentence of Section 3 of Chapter 307 states that the members of the board shall each be allowed the sum of \$10 per day and their necessary travelling expenses for actual attendance upon examination of candidates and the necessary hearings.

The Personnel Law and Rules provided that no classified employee shall receive additional compensation for added work placed upon him. You have

asked this office if, under the provisions of Section 3 of Chapter 307, the executive secretary of the Electricians Examining Board, being a classified employee, is eligible to receive the \$10 per day authorized by said section.

It is our opinion that Section 3 clearly provides that all members of the board shall receive the sum of \$10 per day when in attendance upon the business of the board. This statutory provision is subsequent in time to that enacted in the Personnel Law and Rules and therefore governs the question.

JAMES G. FROST
Deputy Attorney General

December 29, 1953

To E. E. Edgecomb, Chief Inspector, Labor and Industry
Re: Hot Water Heating Boilers

We have your memo in which you ask if, under the provisions of Section 59 of Chapter 25, R. S. 1944, as amended by Section 1 of Chapter 319 of the Public Laws of 1953, hot water supply boilers are included in the phrase, "hot water heating boilers located in schoolhouses," and therefore require inspection by your department.

The section of law referred to above is a safety measure designed to protect school children from potentially dangerous instruments. As such, it is our opinion that hot water supply boilers come within the intent of the law.

JAMES G. FROST
Deputy Attorney General

December 31, 1953

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Assignment of Accounts Receivable

I am returning enclosed the assignment of accounts receivable signed by Mr. Cedric A. Foster, which you returned to me with your memorandum of December 30, 1953, stating that it had no value so far as you were concerned.

I have read the provisions of Section 18 of Chapter 384 of the Public Laws of 1947, and I had read this section before I made out the assignment. It is a well-founded principle of law in this State that the State is not bound by its own statutes unless expressly named therein. It is my opinion that the legislature did not intend to exclude the State from receiving assignments of retirement funds. On this authority we have four cases:

Cape Elizabeth v. Skillin, 79 Me. 594;
Benton v. Griswold, 95 Me. 450;
Goss Co. v. Greenleaf, 98 Me. 436; and
Whiting v. Lubec, 121 Me. 121.