

**Boiler Inspector, Authority of. Steam Engineer, License of.
Federal Territory, State Without Jurisdiction in.**

The State has no jurisdiction, except for the serving of process, over land acquired by the United States for the purpose of erecting thereon a postoffice or other federal building. The boiler inspector has no authority to compel a person operating a steam engine upon such federal ground to take out a license.

May 28th, 1913.

Mr. Percy L. Brown,
State Boiler Inspector,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication of recent date, requesting my opinion as to your authority to require an engineer engaged in operating a concrete mixer upon the federal ground in the construction of the federal postoffice at Livingston, Montana, to take out a state license under the provisions of the statute requiring a person to take out a state license from your department before operating a steam engine.

The question thus submitted involves the jurisdiction of the State of Montana over a tract of land within this state, which has been acquired by the United States for the purpose of erecting thereon a postoffice or other federal buildings. I call your attention to Secs. 21, 23 and 24 of the Revised Codes of this State:

"The sovereignty and jurisdiction of this state extends to all places within its boundaries as established by the constitution, excepting such places as are under the exclusive jurisdiction of the United States; but the extent of such jurisdiction over places that have been or may be ceded to, purchased or condemned by the United States, is qualified by the terms of such cession, or the laws under which such purchase or condemnation has been or may be made.

"The Legislative Assembly consents to the purchase or condemnation by the United States of any tract of land within this state for the purpose of erecting forts, magazines, arsenals, court houses, postoffices and other needful buildings, upon the express conditions that all civil process issued from the courts of this state, and such criminal process as may issue under the authority of this state against any person charged with crime, may be served and executed thereon in the same

mode and manner and by the same officers as if the purchase or condemnation had not been made.

"That pursuant to Art. 1, Sec. 8, paragraph 17, of the Constitution of the United States, consent to purchase is hereby given, and exclusive jurisdiction ceded to the United States over and with respect to any lands within the limits of this state, which shall be acquired by the United States for any of the purposes described in said paragraph of the Constitution of the United States; said jurisdiction to continue as long as the said lands are held and occupied by the United States for public purposes; reserving, however, to this state a concurrent jurisdiction for the execution upon said lands of all process, civil or criminal, lawfully issued by the courts of the state, and not incompatible with the cession hereby made; provided, that an accurate map or plat and description by metes and bounds of said land shall be filed in the office of the county clerk and recorder of the county in which the same are situated, and if such lands shall be within the corporate limits of any city, such map or plat shall also be filed in the office of the city clerk of said city; and provided further, that the state reserves the right to tax all property of any railroad or other corporation having a right of way or location over or upon the said land."

Under the provisions of the above sections the state has no jurisdiction whatsoever, except for the purpose of serving "civil or criminal process" over the land acquired by the United States for the purpose of erecting thereon a postoffice or other federal building, provided, however, that a map of the land has been filed with the officers designated in Sec. 24 above quoted. (See *State v. Tully*, 21 Mont. 375; 78 Pac. 763.) The laws of the State of Montana are not in effect over such a tract of land, and any act or omission committed thereon does not constitute an offense against the laws of the State of Montana.

You are therefore advised that you have no authority to compel a person operating a steam engine upon the federal ground at Livingston to take out a license from your department.

Very truly yours,

D. M. KELLY,
Attorney General.