

# MAINE STATE LEGISLATURE

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March 11, 1940

Frederick J. Flaherty, President  
Maine Funeral Directors Association  
15 Deering Street  
Portland, Maine

Dear Fred:

As a result of the discussion which you and I have been having by correspondence in connection with the proper interpretation of the last paragraph of Section 31-A as enacted by Section 9 of Chapter 243 of the Public Laws of 1939, and of the further study which I have made of this section in connection with the further provisions of the statutes regulating the conduct and powers of the Board of Examiners, it is plain that this paragraph is not as definitely worded as it should be to express the clear intention of the Legislature.

The section seems to say, in the absence of the inclusion of any effective date, that any person at that time holding an embalmer's license, or who may thereafter qualify for one, is entitled to a certificate of registration as a funeral director without fee or examination on filing the affidavit mentioned. However, reading in connection with the further provisions of your law, especially of Section 23 of Chapter 1 of the Public Laws of 1933, as amended by Section 3 of said Chapter 243, it would seem rather inconsistent to interpret this paragraph as a first reading of it would indicate. Section 23 provides definitely for the giving of separate licenses to embalmers and funeral directors based upon separate examinations and, as you have explained to me, separate and distinct training and qualifications, and it is rather a strained construction of the last paragraph of Section 31-A to interpret it as I have indicated above after the Legislature had gone to the point of very definitely distinguishing between the two offices

Frédéric J. Flaherty  
March 11, 1940 - Page 2

and providing for separate examinations because, so interpreted, the paragraph would nullify all of the provisions relative to the giving of examinations for funeral directors' licenses to licensed embalmers.

It seems to me, therefore, that that paragraph should be interpreted as providing that any person who on the effective date of the amendment, that is July 21, 1939, was a licensed embalmer is entitled to a license as a funeral director on complying with the provisions of that section; but that after said date, the section did not apply and separate examinations should be given to applicants for licenses as funeral directors.

This is one of those rather obscure provisions which, in the absence of clarification by the Legislature, should, in my opinion, be interpreted in the manner which best advances the object set forth in the act and carries out the intent of the sponsors of the act and of the Legislature which passed it. I, therefore, think your Board is justified in proceeding along the lines indicated above and if any person is aggrieved by such procedure the Courts of the State are open to him for a petition seeking a different interpretation of the provisions.

Very truly yours,

Franz U. Burkett  
Attorney General

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