

MAINE STATE LEGISLATURE

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Yes

March 2, 1954

To Joseph A. P. Flynn, Secretary, Electricians' Examining Board
Re: Licensing of Electricians under R. S., Chapter 73-B

This office has been requested to consider Chapter 73-B, R.S. 1944, enacted by Chapter 307, Section 1, P. L. 1953, requiring that electricians be licensed, as it applies to oil--burner installation and servicemen.

The precise question may be phrased: May a competent oil-burner service man be licensed as an electrician under the "grandfather clause", where his entire electrical experience has been restricted to work on such burners?

The answer, in our opinion, is: Under the "grandfather clause", the Board may grant a license to any person who presents satisfactory evidence that he has engaged in the business of making electrical installations in any or all of the following fields, namely: heating, lighting, and power within the State of Maine for at least 2 years prior to June 30, 1953. As used here, "installations" include installation, repairs, alterations and maintenance, or any of them.

Section 6 of the statute provides that a license may be given without examination "to any applicant therefor who shall present satisfactory evidence that he has the qualifications of such electrician and has engaged in the business or occupation, as the case may be, of making electrical installations within the State for at least 2 years prior to June 30, 1953."

Section 2 of the statute defines an electrician as "any person, firm or corporation that, as a business, hires or employs a person or persons to make electrical installations, or without hiring any person does such work as a principal business or as auxiliary to a principal business for his or its own account. . ."

It would thus appear that any person who has been installing oil burners is acting as electrician "as auxiliary to a principal business," etc. It would seem to follow that if he has been in such business for at least 2 years prior to June 30, he should be given a license without examination.

The subject is annotated in 4 A.L.R. 2d, 667. It is the editorial conclusion that grandfather clauses, generally speaking, are intended to protect those conscientious persons who are earning a living in a certain vocation even though they might not be able to pass the examination. One cannot generalize so broadly. There is no reason, of course, for admitting everyone who asks admittance. The Board should at all times be satisfied that the person is not pretending to have some skill which in fact he lacks.

We are conscious of altering only one word of the statute and for that there is statutory authority. Subsection I of Section 2 states that "electrical installations" relates to devices "for heating, lighting and power purposes". The underlined "and" we have considered to be equivalent to "or". Chapter 9, Section 21, provides:

"The words 'and' and 'or' are convertible as the sense of a statute may require."

We believe that the two are convertible in this instance for the reasons that an electrician is defined as a person who, as a business, makes electrical installations, or makes them "as auxiliary to a principal business". But their business relates to heating and not to lighting and power. Hence it would seem to follow that the "and" should be understood to mean "or".

Drafted by Boyd L. Bailey
Revised and signed by Alexander A. LaFleur

cc: Edmund Muskie and Sidney Rhaxter