

MAINE STATE LEGISLATURE

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See Opinion dated December 15, 1967

" January 4, 1968

November 21, 1967

William H. Bradford, Exec. Secretary

Board of Registration of Land
Surveyors

Garth K. Chandler, Assistant

Attorney General

Construction of P. L. 1967, c. 423

You have asked of this office an opinion on the following questions with regard to P. L. 1967, c. 423 - An Act Providing for the Registration of Land Surveyors.

Section 1663. Other legally recognized professions not affected. A) ". . . who was duly registered as a professional engineer prior to the effective date of this Act . . ."

QUESTION 1:

Does this refer (1) only to registrants with the Maine Board of Professional Engineers or (2) to include a registrant of any recognized State Board which may be a National Council of Engineering Examiners Member Board which includes the Maine Board?

ANSWER 1:

Only to those registered with the Maine State Board of Professional Engineers.

OPINION 1:

The intent of the statute is to be determined as a whole and from the wording of it without supplying any language. Acheson v. Johnson 147 Me. 275. That those who are registered by the Maine State Board of Professional Engineers are included appears obvious. But there is no requirement expressly or impliedly stated which includes Engineers so registered out of State. To the contrary, one part of the Statute (§ 1681.1) suggests reciprocity only when land surveyors are concerned. This is not in contravention of the provisions of 32 M.R.S.A. § 1251 to 1360 because out of State Engineers are not automatically entitled to the same status as are Maine Engineers.

QUESTION 2:

Is the fee for this registration to be assessed under sections 1683 or 1685.1?

ANSWER 2:

1685.1

William H. Bradford

November 21, 1967

OPINION 2:

1685.1 establishes the limit of the fee while 1683 refers to the fee but establishes no limit or amount. The Rules promulgated by the Board might well fix a fee for § 1683 consistent with the requirements of § 1685.1.

QUESTION 3:

Does "application" in the reference section mean that all the information required in § 1678 must be furnished on such application?

ANSWER 3:

No.

OPINION 3:

§ 1678 lists the information required on the records and reports and says nothing of what is required on the application. By Rule the Board might properly include information similar to that suggested in § 1678 sub-section 1,2,3,4, but the inclusion of the information suggested in § 1678 sub-section 5,6,7, 8 & 9 might be of questionable worth on such an application although required to be compiled in the records. The Board might well desire other pertinent information on an application than that suggested by § 1678.

QUESTION 4:

Is a Registered Professional Engineer registered as a Land Surveyor under this Act subject to all the requirements of the Act such as renewal fees (section 1689), requirements for the use of a Land Surveyor's seal (section 1687), etc.?

ANSWER 4:

Yes.

OPINION 4:

Once a person who is duly registered as a Professional Engineer prior to the effective date of the Act (§ 1663) elects to register as a Land Surveyor under the Act, he is subject to all its terms. Otherwise he would enjoy its benefits without assuming any obligations.

William H. Bradford

November 21, 1967

QUESTION 5:

Do rules and by-laws made and approved by the Board require approval by any other agency or individual?

ANSWER 5:

No.

OPINION 5:

5 M.R.S.A. § 2301 to 2354 lists those Boards which must comply with its terms. The Board of Land Surveyors is not listed and there are no provisions in the Act requiring such approval. The Board might want to ask for advise, however, to make sure that the form is proper and the Rules are not in contravention of the Act.

QUESTION 6:

Can the Board charge a reasonable fee for each roster required to cover the cost of printing, mailing, etc.?

ANSWER 6:

No.

OPINION 6:

The intent of the statute is to be determined as a whole and from the wording of it without supplying language or doing violence to it. Acheson v. Johnson 147 Me. 275. In the absence of express or implied intent to charge such a fee, there is no authority for doing so.

GKC/mf

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