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March 1, 1968

William H. Bradford, Secretary

Board of Reg. for Professional
Engineers

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Attorney General

Use of Term "Forest Engineer"; Applicability of 32 M.R.S.A. § 1351

FACTS:

Mr. D. A. Swan has requested forms for use by him in seeking registration as a land surveyor. Mr. Swan's request was in the form of a letter dated February 5, 1968 addressed to the "State Board of Registration for Land Surveyors." The letter is signed "D. A. Swan"; and under the signature appears the following: "D. A. Swan, Forest Engineer". The State Board of Registration for Professional Engineers has questioned the lawfulness of the use of "Forest Engineer" by Mr. Swan.

By letter dated February 7, 1968, the Secretary of the State Board of Registration for Professional Engineers informed Mr. Swan that the Board believed that the use of the title "Forest Engineer" was in violation of 32 M.R.S.A. § 1351. Mr. Swan's response, dated February 9, 1968, stated that the term "Forest Engineer" is a term commonly used in the forestry profession; and it in no way implies that the user is an engineer governed by the State Board of Registration for Professional Engineers. This time, Mr. Swan's letter was signed "D. A. Swan", without use of the term "Forest Engineer".

QUESTION:

Whether the reference use of the term "Forest Engineer" constitutes a violation of 32 M.R.S.A. § 1351?

ANSWER:

No.

OPINION:

The provisions of 32 M.R.S.A. § 1351 contain the following recital:

"In order to safeguard life, health and property, any person practicing or offering to practice the profession of engineering shall be required to submit evidence that he is qualified to so practice and shall be registered as provided. It shall be unlawful for any person to practice or to offer to practice the profession of engineering in the state or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer, unless such person has been duly registered or exempted under this chapter."

The reference quoted language directs us to ascertain whether Mr. Swan's use of the term "Forest Engineer" constitutes the use of a title "tending to convey the impression that he is a professional engineer." (We are informed that the given facts indicate that Mr. Swan is not "duly registered or exempted" under chapter 19 of Title 32 of the Maine Revised Statutes.)

First, in order to engineer this opinion towards completion, we turn to the definitions appearing in 32 M.R.S.A. § 1251 for the purpose of determining the meaning to be given the words "professional engineer", which words have been used by the Legislature in the clause: " * * * tending to convey the impression that he is a professional engineer * * * ." The term "professional engineer" is defined as "a person who, by reason of his knowledge of mathematics, the physical sciences and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in engineering practice as defined."

32 M.R.S.A. § 1251, 4. Our answer, then, accrues from a determination whether use of the term "Forest Engineer" tends to convey the impression that the user is qualified to engage in "engineering practice" as defined in the Maine Revised Statutes. The "practice of professional engineering" is defined in § 1251, under paragraph numbered 3, as follows:

"The term 'practice of professional engineering' shall be held to mean any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction in connection with

any public or private utilities, structures, buildings, machines, equipment, processes, works or projects, wherein the public welfare or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data."
(Emphasis supplied)

We have not been asked to determine whether Mr. Swan is unlawfully practicing as a professional engineer; but whether he is in violation of the remaining disjunctive set forth in § 1351, i.e., use of any title or descriptive language tending to convey the impression that he is a professional engineer. We have said that he is not in violation of § 1351 in this latter respect. We cannot opine, as a matter of law, that the use of the term "Forest Engineer" constitutes the use of a title tending to convey the impression that the user is a professional engineer practicing professional engineering, as these several terms are defined in the Maine Revised Statutes, above noted. In our view, the term "Forest Engineer" is no more in violation of § 1351 of Title 32 of the Maine Revised Statutes, than would be the title "culinary engineer" or "cultural engineer."

In conclusion, attention is given to § 1251, 3, defining "practice of professional engineering." Note that the several words: "consultation", "investigation", "evaluation", etc., are involved with "construction in connection with any public or private utilities, structures, buildings" etc. The term "Forest Engineer" does not import such construction in connection with public or private utilities, structures, buildings, etc.

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