

6467.

ENGINEER—CIVIL ENGINEER PROHIBITED FROM ADVERTISING UNLESS REGISTERED AS PROFESSIONAL ENGINEER UNDER SECTIONS 1093-1, ET SEQ.

SYLLABUS:

Under the provisions of Section 1083-1, et seq., General Code, a person who has not been duly licensed as a registered professional engineer, may not advertise in the State of Ohio that he is a civil engineer or make use of some other similar title.

COLUMBUS, OHIO, December 3, 1935.

*State Board of Registration for Professional Engineers and Surveyors,
1113 Wyandotte Bldg., Columbus, Ohio.*

GENTLEMEN: This will acknowledge receipt of your request for my opinion which reads in part as follows:

“The State Board of Registration for Professional Engineers is desirous of securing an opinion from your department relative to the illegal use of the term “engineer” as used in various telephone directories by men who are not legally qualified to practice engineering as set out in G. C. 1083-1 to 1083-26 inclusive.”

You enclosed a letter from the Cuyahoga County Society of Professional Engineers which reads in part as follows:

“Our Board of Direction requested that we obtain through you an opinion from the Attorney General:

1. If an individual lists himself as a ‘Consulting Engineer’, ‘Civil Engineer’, ‘Sanitary Engineer’ etc., and is not registered in Ohio, can we bring charges against him under Rule XVI just as readily as if he listed himself as ‘Consulting Professional Engineer’, ‘Civil Professional Engineer’, ‘Sanitary Professional Engineer’, etc.”

The Legislature in 1933 (115 O. L. 355) enacted a comprehensive program for the regulation of professional engineers and surveyors. In 1935 (116 O. L. 174) the Legislature amended this law but these amend-

ments are not material to your inquiry. Section 1083-1, General Code is particularly pertinent to your question and reads as follows:

“That in order to safeguard life, health, and property, any person practicing or offering to practice the professions of engineering or of surveying, shall hereafter be required to submit evidence that he is qualified so to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to practice or to offer to practice the professions of engineering or of surveying, in this 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 or a surveyor, unless such person has been duly registered or exempted under the provisions of this act.”

For the purposes of this opinion, I assume that the persons in question are not exempted from the provisions of the law. For such exemptions see Section 1083-20, General Code. An examination of above quoted Section 1083-1 clearly discloses that what is forbidden to an unlicensed person is not only the actual practice of engineering but also the holding out to the public that one is a professional engineer. Such a broad aspect concerning these license laws is not unique. See for example Section 1335-5, General Code. The terms “professional engineer” and “practice of professional engineering” are defined in Section 1083-2 as follows:

“The term ‘professional engineer’ as used in this act shall mean 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 hereinafter defined.

The practice of professional engineering within the meaning and intent of this act includes any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or privately owned public utilities, structures, buildings, machines, equipment, processes, works or projects wherein the public welfare, or the safeguarding of life, public health or property is concerned or involved, when such professional service requires the application of engineering principles and data. * * *”

Section 1083-23, General Code, which is the penal section of this license law, reads as follows:

“Any person who shall practice, or offer to practice, the profession of engineering or surveying in this state without being registered or exempted in accordance with the provisions of this act, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and shall, upon conviction, be subject to pay a fine of not less than one hundred dollars (\$100.00), nor more than five hundred dollars (\$500.00).

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of this act and to prosecute any persons violating same. The attorney general of the state or his designated assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out the provisions of this act.”

Legislation similar to this license law has been uniformly upheld as a proper exercise of police power. No doubt the Legislature felt that in the interest of the safety of the general public, not only the actual practice of engineering should be regulated but also the public should be protected from persons who hold themselves out as engineers. In other words, the public should be protected from the possibility of deception by unlicensed persons.

A somewhat analogous question with reference to the Architects Law was considered in an opinion which appears in the Opinions of the Attorney General for 1934, Volume 2, Page 1061. The following passage from that opinion appears at Page 1064:

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The last paragraph of Section 1334-5, General Code, *supra*, provides that, ‘no other person (other than a registered architect) shall use any abbreviations, or any words, letters or figures, to indicate or imply that he or she is an architect or registered architect.’ The conclusion seems irresistible that when a person uses the title ‘Architectural Engineer’, the use of the adjectival form of the word ‘architecture’ is prohibited by this section unless the party using such term is a registered architect. Although

the term 'Architect' was not defined in the Architectural Law the legislators protected the title 'Architect' in all its various forms, knowing that such protection was vital to the administration of the Architectural Registration Law. It is certain that an unregistered architect could not use the terms 'Architectural Designer' or 'Architectural Consultant' and it is my opinion that 'Architectural Engineering' is in the same category with these other appellations.

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While it is true, as stated in the letter addressed to you, that the individuals in question do not use the word "professional", it is nevertheless the intent of the person who calls himself, for example, "civil engineer" and inserts his name with such title, in a telephone directory, to convey the impression that he is a "professional civil engineer". It is rather difficult to imagine why a person would list himself in a telephone directory as a "civil engineer" unless he intended to convey the impression that he was a professional engineer and would practice such profession if called upon to do so. In fact, it is an invitation to the public that his professional services are for hire. In any event the language of Section 1083-1 is very broad and it can be safely said that the Legislature intended to prevent anyone conveying the idea that he is a professional engineer, unless he is duly licensed as such, under the provisions of Sections 1083-1, et seq., General Code. It would seem that the examples mentioned in your letter violate not only the spirit but the letter of the law as expressed in Section 1083-1, General Code.

It is, therefore, my opinion in specific answer to your inquiry, that under the provisions of Sections 1083-1, et seq., General Code, a person who has not been duly licensed as a registered professional engineer, may not advertise in the State of Ohio that he is a civil engineer or make use of some other similar title.

Respectfully,

JOHN W. BRICKER.

Attorney General.