

2931.

APPROVAL, NOTES OF AMERICAN RURAL SCHOOL DISTRICT, ALLEN COUNTY, OHIO—\$3,500.00.

COLUMBUS, OHIO, July 17, 1934.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

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2932.

ARCHITECTURAL ENGINEER—STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS SHOULD NOT ACCEPT REGISTRATIONS THEREFOR UNDER SECTION 1334-5, GENERAL CODE.

*SYLLABUS:*

*By virtue of Section 1334-5, General Code, which is a part of the Act creating the State Board of Examiners of Architects, the State Board of Registration for Professional Engineers and Surveyors should not accept registrations under the classification of "Architectural Engineers."*

COLUMBUS, OHIO, July 18, 1934.

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

GENTLEMEN:—I am in receipt of your communication which reads in part as follows:

"The question has arisen as to whether or not this Board can legally grant a certificate of registration in the branch of Architectural Engineering.

We are asking that you render an opinion as to whether or not there are any existing laws which would prevent this Board, The State Board of Registration for Professional Engineers and Surveyors, from granting certificates in the branch of Architectural Engineering."

The degree of "Architectural Engineering" is conferred by Ohio State University and many other universities in this country. It is a title intended to convey the fact that the recipient has taken, during his work in college, additional hours in mathematics in lieu of certain art subjects and about one-half year in Architectural Design. The courses of Professional Practice, Heating, Plumbing, and Ventilating, and Electrical Work are the same as the regular Architect courses in most instances, for both the student receiving an Architect Degree, and the student in the Architectural Engineering course, for which they receive the degree of "Architectural Engineer". The college residence requirements are the same for both prospective Architects and prospective Architectural Engineers, the only

difference in the courses being in the latter part of the Architectural course the stress is more on the aesthetic side, whereas in the Architectural Engineering course the stress is more on the practical engineering aspect.

The so-called Architectural Law which created the State Board of Examiners of Architects became effective on August 5, 1931, being Sections 1334 to 1334-21, General Code, inclusive, while the law setting up the State Board of Registration for Professional Engineers and Surveyors, being Sections 1083-1 to 1083-26, General Code, inclusive, was enacted in the regular session of the 90th General Assembly.

The pertinent provisions of the Engineers' Law are as follows:

Sec. 1083-1.

- "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."

Sec. 1083-2.

"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. \* \* \*

Sec. 1083-19.

"After the first day of January, one thousand nine hundred and thirty-four, it shall be unlawful for this state, or for any of its political subdivisions, for any county, city, village, township, or school district to engage in the construction of any public work involving the practice of professional engineering or surveying, for which plans, specifications and estimates have not been made by, and the construction thereof supervised by, a licensed professional engineer or surveyor; provided, that this section shall not apply to the construction, improvements or maintenance of county or township highways; nor to any other public work wherein the contemplated expenditure for the completed project does not exceed three thousand dollars.

*Nothing in this act shall be construed as excluding a qualified or registered architect from such engineering practice as may be incident*

*to the practice of his profession; or as excluding a professional engineer registered under the provisions of this act, from such architectural practice as may be incident to the practice of professional engineering."* (Italics the writer's.)

The Architect Law does not attempt to define the practice of Architecture, but the following sections are pertinent in answering the question you propound:

Sec. 1334-5.

"Any person residing in or having a place of business in this state who, upon the date of approval of this act, is not engaged in the practice of architecture in the state of Ohio under the title of 'architect' shall, before engaging in the practice of architecture or before being styled or known as an architect, secure from said board of examiners a certificate of his or her qualifications to practice under the title of 'architect', and be duly registered with said board as provided by this act.

Any properly qualified person who shall have been engaged in the practice of architecture under the title of 'architect' for at least one year immediately previous to the date of the approval of this act and who desires to continue in such practice shall secure such certificate and be registered in the manner hereinafter provided by this act.

Any person holding such certificate and being duly registered pursuant to this act may be styled or known as an architect or as a registered architect.

*No other person shall assume such title or use any abbreviation, or any words, letters or figures, to indicate or imply that he or she is an architect or registered architect."* (Italics the writer's.)

Sec. 1334-17.

"On and after the date ninety days after this act goes into effect, it shall be unlawful for any person in the state of Ohio to enter upon the practice of architecture in the state of Ohio, or to hold himself or herself forth as an architect or registered architect, unless he or she had complied with the provisions of this act and is the holder of a certificate of qualification to practice architecture issued or renewed and registered under the provisions of this act.

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*Nothing in this act shall be construed as excluding a qualified or registered professional engineer from such architectural practice as may be incident to the practice of his engineering profession; or as excluding an architect registered under the provisions of this act from such engineering practice as may be incident to the practice of architecture. \* \* \** (Italics the writer's.)

For the purpose of clarification it is well to have recourse to the dictionary to ascertain the commonly accepted meaning of the term "Architect" and the term "Engineering". Webster's New International Dictionary defines the term "Architect" in the following manner:

"A person skilled in the art of building; a professional student of architecture, or one who makes it his occupation to form plans and

designs of, and to draw up specifications, buildings, and to superintend their execution."

The term "Engineering", in the same dictionary, is defined as follows:

"Originally, the art of managing engines; in its modern and extended sense, the art and science by which the mechanical properties of matter are made useful to man in structures and machines; the occupation and work of an engineer. Engineering originally consisted of military engineering, or the art of making and using military engines, the construction of offensive and defensive military works, etc., and, later, also of civil engineering, or the design, construction, and maintenance of public works, as roads, bridges, tunnels, canals, lighthouses, etc. With the enlargement of the field of constructional work, civil engineering came to include mechanical and other branches of engineering, causing a subdivision into numerous branches, as well as the creation of other departments of engineering, so allied or overlapping in some cases as to make impossible a rigid line of demarcation. Chief among these are: mechanical engineering, applying to the construction and use of machinery; mining engineering, dealing with the excavation and working of mines; electrical engineering, treating of the theory and practice of electrical generation and transmission, and the utilization of electrical energy; chemical engineering, concerned chiefly with the preparation of the materials used in industrial chemistry, the design and erection of the necessary plant, etc.; municipal engineering, including the construction and maintenance of waterworks, sewers, refuse destructors, and other municipal works; structural engineering, including the design and erection of modern large structures. Among other special branches are aerial, agricultural, army, gas, hydraulic, irrigation, marine, naval, ordnance, railroad, sanitary, and steam, engineering."

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.

Of course it must be understood that there is nothing to prohibit a person from being registered both as an architect under the Architectural Registration Law and under the Board of Registration for Professional Engineers and Surveyors as for instance a "Structural Engineer", assuming that such person has the proper qualifications. In the case of both registrations he could then use the title "Architectural Engineer" with impunity.

The Attorney General of Indiana was called upon to rule upon the precise point in issue in 1929. In that state the Professional Engineers' Law was first

enacted and the Architect Registration Law was enacted subsequently. The Engineers' Board had registered "Architectural Engineers" prior to the enactment of the Architects' Registration Law. After the enactment of the Architects' Registration Law because of the provision in the Architects' Law "that no provision of this Act shall apply to and affect any individual, firm or corporation registered as a Professional Engineer under the provisions of Chapter 169, Act of 1921," the Attorney General on July 19, 1929, ruled that the "language exempted those registered as architectural engineers under the Engineers' Act and that consequently such a person so registered was not required in order to continue in architectural work to further register under the Architects' Law and that such person could use the term "Architect" in his title. However, on October 16, 1929 the Attorney General ruled that although Section 11 of the Act of 1929 exempted from all the provisions of said act, individuals, firms, or corporations registered at the time the Architects' Law became effective, subsequent to September 1, 1929, the Engineers' Board should cease to accept registrations under the classification of "Architectural Engineers". See Ninth Annual Report and Roster of the State Board of Registration for Professional Engineers and Land Surveyors of Indiana.

It is stated in the case of *State ex rel. vs. Building Com.*, 123 O. S. 70, at page 74:

"The rule is familiar and elementary that repeals by implication are not favored, and that the legislature in passing a statute did not intend to interfere with or abrogate any former law relating to the same matter unless the repugnancy between the two are irreconcilable."

In Ohio the registration act for Professional Engineers and Surveyors was passed subsequent to the act requiring registration of Architects, and it was certainly not the intent of the later act to repeal in any manner any part of the Architects' Registration Act by implication. Since it is my opinion that the title "Architectural Engineering" involves a form of the word "Architect," the term "Architectural" cannot be used except by a registered Architect because of the prohibitory Section 1334-5, General Code, which has not been expressly or impliedly repealed by the Act creating the State Board of Registration for Professional Engineers and Surveyors. It is my opinion that the latter Board should not accept registrations under the classification of "Architectural Engineers."

Respectfully,  
JOHN W. BRICKER,  
*Attorney General.*

2933.

TOWNSHIP TRUSTEES—PROCEEDS OF SALE OF REAL ESTATE MAY  
BE PAID INTO SINKING FUND OR BOND RETIREMENT FUND.

**SYLLABUS:**

*The proceeds of a sale by the township trustees of real estate belonging to a township, may be paid into its Sinking Fund or Bond Retirement Fund and used*