

Opinion No. 57-36

February 28, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Robert F. Pyatt, Assistant Attorney General

TO: Mr. Edward M. Hartman, State Comptroller, Santa Fe, New Mexico

QUESTIONS

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Whether insurance is within the meaning of the word "thing" as defined in § 6-5-2, N.M.S.A., 1953 Compilation?

CONCLUSION

Yes.

OPINION

ANALYSIS

You have requested this opinion in order to clarify an apparent conflict between opinion of the Attorney General No. 3366 dated December 28, 1939, which held that insurance was not within the statutory meaning of the above cited section, and opinion of the Attorney General No. 4378, dated September 8, 1943, holding that insurance was within the meaning of "supplies" as that term is defined in § 6-7-1, N.M.S.A., 1953 Compilation, dealing with the State Purchasing Agent; this office concurs with the latter.

Both definition statutes employ the word "things" as being within their scope.

We are cognizant of the fact that the two opinions were written in connection with two different statutes, and, therefore, there is no necessary conflict between the two. However, a reading of the State Purchasing Agent Act and the Public Purchasers Law convinces us that the two statutes are sufficiently similar in purpose and policy so that the two opinions are actually in conflict.

The first opinion held that insurance was not within the scope of the statute because it was a type of service involving careful selection. The second opinion held that insurance was a thing within the meaning of § 6-7-1, on the basis of the definition of "things" contained in Webster's New International Dictionary holding that "things" include incorporeal rights as well as tangible objects. While we must approach the overruling of a prior opinion of this office with great caution, we feel that there is actually a conflict between the two opinions, and that the second opinion has the better part of

the argument. "Things" have also been defined as: "The most general denomination of the subjects of property, as contradistinguished from **persons**." Black's Law Dictionary, 3rd Edition. "Subjects of property and dominion" -- Cyclopedia Law Dictionary, 3rd Edition. Accordingly, opinion of the Attorney General No. 3366, dated December 28, 1939, is expressly overruled insofar as the same pertains to this question.

We hold that insurance is a "thing" within the meaning of that term used in § 6-5-2, and that therefore the bid of the lowest responsible bidder must be accepted.

Trusting that this fully answers your inquiry, we remain