

Opinion No. 15-1512

April 28, 1915

BY: H. S. CLANCY,

TO: State Corporation Commission, Santa Fe, New Mexico.

"Heralds of Liberty," an insurance institution.

OPINION

{*100} I am in receipt of your letter of the 19th instant enclosing one from Mr. W. K. Stalcup, of Alamogordo, New Mexico, with reference to the business being done by the "Heralds of Liberty" in this state, and also a copy of the order recently entered by the Arizona Corporation Commission cancelling the authority of this organization to transact business in that state. You ask that this office point out the law of New Mexico under which similar proceedings might be had by your commission looking to the cancellation of the certificate of authority which has been issued to this organization in New Mexico.

{*101} The Arizona Commission, in its order of cancellation, makes use of the following language:

"Investigation has revealed the fact that the Heralds of Liberty have been denied admission into more states than into which they have been admitted and has further revealed the fact that a majority of the states into which they have been admitted would have refused them admittance had their insurance laws been adequate in giving the insurance departments the power to regulate and control the operations of fraternal beneficiary societies of that character."

Unfortunately New Mexico is one of the states where the insurance laws do not confer authority upon any state officer to make examination of the affairs of such an organization as the one in question, or to take any action whatever looking to a revocation of its authority to do business. Section 25 of Chapter 5 of the Laws of 1905 in part provides:

"The provisions of this act shall not be construed so as to prevent any fraternal, religious or benevolent society from issuing indemnity to anyone against loss by death or accident of any of its members, **and such society shall not be held amenable under or governed by any of the provisions of any article in this act pertaining to accident or life insurance**, except as to rendering an annual statement of the condition of said association or society."

While our laws provide for the examination of insurance companies, and for the cancellation of authority to do business in case they fail to comply with our requirements, yet you will see that under the law above quoted the "Heralds of Liberty"

cannot be examined or cited to show cause why they should not be excluded from New Mexico. As before set out, this is an unfortunate state of affairs, and relief from this condition should be sought at the hands of the legislature with a view to the enactment of laws similar to those of other states which vest some state authority with power to examine into the affairs of fraternal, religious or benevolent societies with a view to their exclusion from the state in case their method of conducting business is found to be unsound.