

Opinion No. 16-1870

September 26, 1916

BY: FRANK W. CLANCY, Attorney General

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

Foreign corporation having no capital stock authorized cannot be admitted to transact business in New Mexico.

OPINION

{*421} I have before me a letter from the Corporation Trust Company, addressed to you, on the subject of fees to be paid by a New York corporation to qualify it to do business in New Mexico. That letter shows that the writer is informed as to the requirements of our statute to be found in Section 1003 of the Codification of 1915, which requires payment of fees based upon the amount of capital stock authorized but in no case less than twenty-five dollars. The peculiarity of the New York corporation referred to, is that its stock has no nominal or par value, a New York statute of April 15, 1912, authorizing the issuance of such stock. Thus the basis for calculating the amount of fees to be paid is lacking, and in the absence of any provision in our statutes relating to the qualification of foreign corporations which have no authorized capital stock, the trust company suggests that it would appear that such a corporation could qualify {*422} to do business in New Mexico without the payment of any fee of this kind.

That suggestion, at first glance, appears plausible and would be well-founded were it the fact that a foreign corporation has any inherent right to come into New Mexico and do business but it is a well-known general proposition of law that no state is obliged to admit foreign corporations to do business within it, and may impose such terms and conditions as it deems proper. New Mexico has made no provision whatever for the qualification to do business of any stock corporation which has not a definite amount of capital stock authorized, and, therefore, the conclusion seems unavoidable that such a corporation as this one from New York cannot be admitted into New Mexico at all.

If it is desirable to provide for the admission of such corporations, the matter should be brought to the attention of the Legislature, which will convene in January next.

I return herewith the letter from the Corporation Trust Company.