

**Opinion No. 37-1620**

April 27, 1937

**BY:** FRANK H. PATTON, Attorney General

**TO:** Honorable George M. Biel Insurance Department Santa Fe, New Mexico

{\*85} In connection with the application of Lloyds of America to transact an insurance business in this state, you have requested an interpretation of a portion of Section 1 of Chapter 114 of the Laws of 1935.

The provision which you have in mind provides that no corporation shall be licensed to transact an accident casualty and other enumerated forms of insurance in this state unless it is possessed of a minimum paid up capital of \$ 200,000.00 or a combined capital and surplus of at least \$ 300,000.00. You are particularly interested in whether or not this language means capital stock.

A statute almost identical with ours has just been construed by the Supreme Court of the State of Arkansas in Lloyds America vs. Harrison, Insurance Commissioner, 101 S. W. (2nd) 438, and reported in the {\*86} advance sheets, March 16th, 1937. Briefly, the court held that this language did not mean capital stock and that the word capital related to the capital structure and that if the company had the required available capital it could do business in that state although it might not have capital stock.

I do not feel that I should have the temerity to take issue with the reasoning of the case cited and I therefore agree that that interpretation is correct.