

Opinion No. 45-4771

August 13, 1945

BY: C. C. McCULLOH, Attorney General

TO: Mr. R. F. Apodaca Superintendent of Insurance State Corporation Commission
Santa Fe, New Mexico

{*118} We are in receipt of your letter of August 8, 1945, together with the Power of Attorney and Acceptance of New Mexico Laws. In your letter you call our attention to two questions that have been raised by various insurance companies.

Your first question relates to the word "irrevocably" appearing in the 4th line of the Power of Attorney. The word "irrevocably" is merely surplusage in that any Power of Attorney (unless coupled with an interest) may be revoked. However, by virtue of custom, this word usually appears in Powers of Attorney. As, in my opinion, this word has no {*119} legal and binding effect, it may be dropped or retained without changing the legal effect of the Power of Attorney.

Your second question is as follows:

"In the Acceptance of New Mexico State Laws the words "and recognize as legal and binding" have been inserted in addition to the statutory requirement that the laws of the state be 'accepted'."

The companies feel that this additional language might foreclose their right to question the legality of our laws. It appears to me that if this language is not provided for by the statute, that you have no power to insert it, and that it might have the effect of estopping the foreign companies rights to question our laws. Therefore, it is my opinion that this language should be dropped.

By ROBERT W. WARD,

Asst. Atty. General