

Insurance Corporation Defined.

A corporation which contracts to pay the dues and assessments of members of fraternal beneficiary associations and in the same contract agrees to pay its members a certain sum of money at the end of a specified period of time is an insurance corporation within the provisions of Section 3560, Civil Code, and Section 2 of House Bill No. 258 (Laws of 1897, p. 76), and such corporation must comply with the general laws governing insurance companies before doing business in this State.

March 17, 1905.

Hon. Harry R. Cunningham, State Auditor, Helena, Montana:

Dear Sir:—Your letter of the 8th instant duly received, enclosing prospectus of the American Service Union, with request for an opinion of this office as to whether this company must comply with the insurance laws before doing business in this State. I note from your letter, and from the enclosed prospectus, that the American Service Union deals only with the members of fraternal beneficiary associations, by adding certain endowment features to the already guaranteed insurance provided by the policy issued by the fraternal association. The contracts are written for the periods of twelve years, fifteen years and twenty years, costing respectively \$60.00, \$45.00 and \$30.00 per thousand per annum; to this is added the estimated amount required each year to pay the dues and assessments. By the terms of the contract the American Service Union agrees, among other things, to "pay in cash at the end of the period the principal sum for which the contract is written, in addition to the payment of dues and assessments."

By Section 2 of House Bill No. 258, (Laws 1897, p. 76), a corporation which is organized "to insure the lives and health of persons, and to grant, purchase or dispose annuities" is an insurance corporation within the meaning of that act.

The question presented is, whether the contract of the American Service Union is a contract to insure the life of the person holding it. If it is, then the corporation must comply with the laws governing insurance companies, unless it is a mutual association and exempt under the provisions of Section 683, Civil Code.

Section 3560, Civil Code, referring to contracts of insurance upon life, reads as follows:

"An insurance upon life may be made payable on the death of the person, or on his surviving a specified period, or periodically so long as he shall live, or otherwise contingently on the continuance or determination of life."

It will be seen that the contract of the American Service Union is clearly an insurance upon the life of its policy holder within the definition as contained in the section above quoted. Under that section any contract of insurance in any way contingent upon the continuance or determination of the life of such person is an insurance upon the life of that person, whether the payment is to be made upon the death of the person or at the end of a specified period or annually.

It will also be apparent that the American Service Union is not a mutual association, the members of which give mutual pledges to each other for their own insurance, but it is a corporation, transacting for profit the business of soliciting and making contracts for endowment policies of insurance, and presumably its officers, agents and employes receive salaries or other compensation for the performance of their duties.

So that the contract of the American Service Union clearly brings it

within the provisions of the law governing insurance companies, with which it must comply before doing business in this State.

I herewith return the prospectus, as requested.

Yours very truly,

ALBERT J. GALEN,

Attorney General.