

laws of Montana, is exempt from the provisions of the State "Blue Sky" Act.

Section 4028, R. C. M. 1935, lists the securities to which the Blue Sky Act does not apply. Among the others listed are "securities of any domestic corporation not organized for profit" (Subdivision 5). The question then is whether this association is organized for profit. In the application for license, File No. 43236, Secretary of State's Office, it is stated that the purpose of the association is to engage in a "general printing and publishing business." We are unable to determine conclusively from the application whether the association is organized for profit. While the by-laws (Article VI) make provision for the distribution of earnings and dividends (if there should be any), we do not think they are conclusive on the question.

It is apparent from a reading of the prospectus issued by the association, attached to the by-laws, that the real purpose of the association is not to make a profit but rather educational. Its purpose, as therein stated, frankly is to offset what is termed "insidious propaganda." Its plan of financing is by state-wide sale of stock "to insure the raising of sufficient capital and to develop general public interest." It is proposed to enlist the aid of the Farmers Union locals and the Labor Union locals in each community, and, as stated on page 4, "generally, the plan for the financing drive will follow the methods used by the Red Cross and other organizations. The directors believe that the people of the State are convinced that a real emergency exists, and that if this proposed remedy is presented to them they will be willing to make sacrifices to accomplish its purpose." (Underscoring ours.) Therefore, it would seem from the prospectus, which states the avowed purpose of the association, that the real purpose is educational rather than financial profit, and that the subscribers are really called upon to make sacrifices rather than to invest with the hope of profit. If the real purpose of the association is thus presented to the public from which subscriptions are sought, those purchasing stock are not deceived into thinking that they are making an investment for profit.

It is my opinion, therefore, that the purpose of the association must be determined from all the facts and that the

Opinion No. 139.

Investments—Blue Sky Act.

HELD: Where it appears from the prospectus, the by-laws and the application for license being inconclusive, that the purpose of an association organized in this state is educational rather than profit, it is exempt from the provisions of the State Blue Sky Act.

August 7, 1937.

Hon. John J. Holmes
State Auditor and Ex-officio
Insurance Commissioner
The Capitol

Dear Mr. Holmes:

You have asked my opinion on the question whether or not "The Educational Co-operative Publishing Company of Montana," organized under the

inquiry should not be limited to the by-laws and the application for license.

It is my opinion further, from all the facts presented to us, that the real purpose of the association is not financial profit but "educational."