

BURIAL SOCIETIES: Person regularly receiving and transmitting assessments to foreign burial association unlawfully acts as agent.

September 24, 1943

9/28



Hon. Wayne V. Slankard  
Prosecuting Attorney  
Newton County  
Neosho, Missouri

Dear Mr. Slankard:

Under date of September 17, 1943, you wrote this office requesting an opinion as follows:

"I would like your opinion on the following: a Burial Association of Oklahoma has written a number of contracts with people residing in Oklahoma but who live near Seneca in this county and within the Seneca trade territory. It is more convenient that they pay their assessments to an agent of the Association who lives at Seneca. Does the fact that these members of the Association pay their assessments to an agent of the Association residing in Missouri constitute a violation of our statutes? These contracts are written in Oklahoma and the agent residing in Seneca does not write contracts but merely collects the assessments."

In your letter you make no statement of facts concerning the plan of operation for the Oklahoma Burial Association and it is assumed that such burial association operates upon a plan similar to that held to be doing an insurance business in the case of State ex inf. Williamson v. Black, 145 S. W. (2d) 406, and in which case the statute under which

numerous burial associations had been organized in this State, was held to be unconstitutional and void. This opinion is written, based upon that assumption.

Your attention is directed to Section 6018, Article 10, Chapter 37, R. S. Mo. 1939, which is in part as follows:

"Any person or persons in this state who shall receipt for any money on account of or for any contract of insurance made by him or them for any insurance company or association not at the time authorized to do business in this state, or who shall receive or receipt for any money from other persons, to be transmitted to any such insurance company or association, either in or out of this state, for a policy or policies of insurance issued by such company or association, or for any renewal thereof, although the same may not be required by him or them as agents, or who shall make or cause to be made, directly or indirectly, any contract of insurance for such company or association, shall be deemed to all intents and purposes an agent of such company or association, and shall be subject to all the provisions and regulations and liable to all the penalties provided and fixed by this chapter. \* \* \*"

And also to Section 6019 of the same article and chapter, as follows:

"Any person or persons who in this state shall act as agent or solicitor for any individual, association of individuals or corporation engaged in the transaction of insurance business, without such person or persons first having obtained from the superintendent of the insurance department of this state the certificate

authorizing him to act as such agent or solicitor, as required by section 6003 of the Revised Statutes of this state, or who shall act as agent or solicitor for any individual, association of individuals or corporation engaged in insurance business, before such individual, association of individuals or corporation shall have been duly authorized and licensed by the superintendent of the insurance department of this state to transact business in this state, or after such license has been suspended, revoked, or has expired, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined not less than ten nor more than one hundred dollars for each offense, or imprisoned in the county or city jail for not less than ten days nor more than six months, or by both such fine and imprisonment." (Underscoring ours.)

Conclusion.

A person collecting assessments in this State and remitting them as a regular course of procedure to a burial association not licensed to do business in the State of Missouri, would be violating the statutes set out above.

Respectfully submitted,

W. O. JACKSON  
Assistant Attorney-General

APPROVED:

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ROY MCKITTRICK  
Attorney-General