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ASTROLOGY AND ALLIED SUBJECTS — FORTUNE-TELLING, CLAIRVOYANCE, PALMISTRY — SECRETARY OF STATE — NOT AUTHORIZED TO ACCEPT FOR FILING, ARTICLES OF INCORPORATION, CORPORATION NOT FOR PROFIT, TO ESTABLISH AND CONDUCT EDUCATIONAL INSTITUTIONS IN FURTHERANCE STUDY OF SUCH SUBJECTS AND GIVE DIPLOMAS TO SUCH STUDENTS.

SYLLABUS:

The Secretary of State is not authorized to accept for filing and recordation articles of incorporation for a corporation not for profit the purpose of which, as stated in those articles is to establish and conduct educational institutions, training schools, correspondence and extension schools, and to maintain lecture courses and employ lecturers, instructors and research workers therefor in futherance of the study of astrology and allied subjects, and to give diplomas and other evidences of efficiency to students in those institutions.

Columbus, Ohio, May 15, 1942.

Hon. John E. Sweeney, Secretary of State,
Columbus, Ohio.

Dear Sir:

I am in receipt of your request for my opinion which reads as follows:

“We are in receipt of application for incorporation of World Institute of Applied Scientific Astrology under the not for profit sections of the corporation act.

The corporation would conduct schools, educational institutes and employ teachers, educators, research workers and instructors and provide courses in any and all branches of astrology and allied subjects.

Among other provisions the proposed articles provide for granting diplomas, certificates and other evidence of proficiency as may be compatible with the laws of the state of Ohio, or such laws as may be hereinafter enacted.

Because of the provision for granting of diplomas or other evidence of proficiency your opinion is requested as to the liability of the said corporation to comply with the laws and requirements of the Department of Education. This matter has

been discussed with Dr. Collins who would appreciate a ruling upon the above set of facts."

In addition to your written request you have informed me verbally that, although you inadvertently failed to include it in your inquiry, you wish to be advised as to your duty in the premises — specifically, whether or not it is your duty as Secretary of state to file the proffered articles of incorporation, in view of the fact that the practice of astrology under the statute, Section 13145, General Code, is unlawful in Ohio.

Inasmuch as the question submitted in your letter will not arise if the application for incorporation is rejected, I will consider first whether or not a corporation such as is proposed may be incorporated in this state.

The articles of incorporation submitted to you are signed by three persons who certify therein that they desire to form a corporation not for profit under the general corporation act of Ohio. The provisions of the proposed articles, as to the name, location and purposes of the proposed corporation, read as follows:

- FIRST: The name of said corporation shall be WORLD INSTITUTE OF APPLIED SCIENTIFIC ASTROLOGY.
- SECOND: The place in this state where the principal office of the corporation is to be located, is Cleveland, Cuyahoga County, Ohio.
- THIRD: The purpose or purposes for which said corporation is formed are:
- (a) To establish, organize, manage, and conduct schools and educational institutions, and to employ teachers, educators, research workers, and instructors, and to provide courses in any and all branches of Astrology and allied subjects.
 - (b) To establish and conduct institutes, lectures, courses, correspondence and extension courses, training schools, home classes, and to use and adopt such means as the trustees of the corporation may from time to time deem best to promote the purposes of the corporation and to secure, print and publish books, charts, courses of study and any other material to be used in connection with such courses.
 - (c) To erect, lease, or otherwise acquire suitable building space, buildings, or structures necessary to

conduct such schools and educational institutions, and to provide books, libraries, furniture, and other apparatus and equipment to be used in connection therewith.

- (d) To give such diplomas, certificates and other evidences of proficiency as may be compatible with the laws of the state of Ohio, or such laws as may be hereafter enacted and the doing of such other things as may be deemed incidental to the main objects of the corporation or may be thought to be in furtherance of the purposes thereof.

Astrology is neither a science nor an art. In Webster's New International Dictionary it is defined as a pseudo science which treats of the influence of the stars upon human affairs and of foretelling terrestrial events by their position and aspects. In the same work it is classified as one of the so-called occult sciences which are defined as those that relate to supposed action or influence of occult qualities or supernatural powers as alchemy, magic, necromancy and astrology. See also *Corpus Juris Secundum*, Vol 7, page 139. *Encyclopaedia Britannica* speaks of it as a "so-called" science, and refers to its tenets as "illusions" based on a "preposterous philosophy." The legislature of Ohio places it in the same category as fortune telling, clairvoyance and palmistry. See Section 13145, General Code. The Supreme Court of Washington places it on a parity with fortune telling. *State v. Neitzel*, 69 Wash., 567, 125 Pac., 939. Likewise, the courts of England, *Perry v. Hanson*, L. R., 18 Q.B. Div., 478. The Supreme Court of Ohio inferentially did the same. *Davis v. State*, 118 O. S., 25. The practice of astrology which may be what is meant by "Applied Scientific Astrology," as the expression is used in the name of this proposed corporation is outlawed in Ohio by Section 13145, General Code. This statute reads as follows:

"Whoever, not having been duly licensed so to do, represents himself to be an astrologer, fortune-teller, clairvoyant or palmister, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned in jail not less than thirty days nor more than three months, or both."

In the *Davis* case, supra, which was a prosecution for "fortune-telling," the court held that so long as the provisions of Section 13145, General Code, are in force and no provision is made by law for the licensing of fortune-tellers, the practice is unlawful. The same would be equally true if the practitioner held himself out to be an astrologer or a clairvoyant

or a palmister. There is not at present any provision for the licensing of any such practices. In the course of the opinion of Chief Justice Marshall in the above mentioned Davis case, he points out that in England a statute was enacted in 1824 making punishable as a rogue and a vagabond, every person pretending or professing to tell fortunes, or using any subtle craft, means or device by palmistry or otherwise to deceive or impose on any of "His Majesty's subjects." The statute did not define fortune-telling, but it was held in the case of *Perry v. Hanson*, supra, that the practice of astrology was a violation of the statute. In the Washington case, *State v. Neitzel*, supra, there was involved a prosecution under a statute of Washington outlawing fortune-telling. The court held as stated in the first branch of the syllabus:

Rom. & Bal. Code, Sec. 2688 which defines one who practices 'fortune telling' to be a vagrant, is constitutional, and extends to the vocation of professing to tell future events in one's life by casting horoscopes, etc. though the principles of astrology be followed."

It will be observed from the terms of Section 13145, General Code, supra, that the inhibition therein contained applies to anyone who "represents" himself to be an astrologer. While the proposed corporation does not purport to become organized for the purpose of representing itself to be an astrologer, it does propose to organize and conduct institutions to teach the subject and to employ lecturers, teachers and instructors for that purpose. It further proposes to establish and conduct training schools and home classes to further the objects of the corporation and to give diplomas and certificates of proficiency to students who had attained proficiency in the courses of study and the training afforded in those schools. Obviously the instructors and teachers who would be employed for the purpose would necessarily hold themselves out or represent themselves as astrologists or professors in whatever allied subjects might be taught in the institutions which the proposed corporation might establish and conduct, as that is the purpose for which they would be employed. If they did not so represent themselves they would not be competent to instruct and advise students in the proposed principles of those subjects or train them in the application of those principles.

It is provided in Section 8623-97, General Code, that a corporation not for profit may be formed for any purpose not involving pecuniary

gain or profit for which natural persons may lawfully associate themselves. Manifestly, a corporation may not be formed for an illegal purpose or in furtherance of a prohibited or unlawful purpose. See Fletcher's Encyclopaedia of Corporations, Vol. I, Section 93.

It would seem to require no argument to establish the principle that a corporation may not be formed for a purpose which would require for the carrying out of that purpose the employment of persons who are forbidden by law from representing themselves as being efficient in the doing of unlawful acts and certainly it could not be formed for the purpose of instructing and training persons to do something that is positively forbidden by law.

I am of the opinion that the law does not authorize the forming of a corporation for the purpose of conducting institutions for the purpose of instructing and training persons to become proficient in astrology or any other subject the practical application of which is prohibited by law.

It is not the duty of the secretary of state to accept for filing and recording articles of incorporation for a proposed corporation the purposes of which as stated therein are prohibited by law. *State ex rel. v. Myers*, 128 O. S., 366.

I am therefore of the opinion that you are not authorized by law to file and record the proffered articles of incorporation for the World Institute of Applied Scientific Astrology hereinbefore considered.

Having taken this view of the matter, it is not necessary to consider the questions submitted in your written inquiry.

Respectfully,

THOMAS J. HERBERT
Attorney General.