

In Opinion No. 2522 of this department, directed to you under date of September 1, 1928, and which opinion is referred to in your communication, I advised you that I was unable to approve the contract submitted on account of certain provisions in paragraph ten (10) of said contract, whereby the State of Ohio is required to assume all responsibility for and indemnify said railway company against loss or damage to property of the state or to property upon the premises, arising from fire caused by locomotives operated by the railway company upon said track, regardless of the railway company's negligence in the operation of such locomotives, and the State of Ohio is to indemnify said railway company for loss, damage or injury to the person or property of the parties to the contract or their employes, and to the person or property of any other person, firm or corporation due to any act or omission upon the part of any agent or employe of the state. I have carefully noted the contents of your communication, as well as those of the communication of the Division Engineer of the railway company to your department touching this matter. However, neither of these communications throw any light upon the question of your power and authority to impose upon the State of Ohio the obligations contained in paragraph ten (10) of said contract above referred to; and I am still constrained to the view that I have no authority to approve said contract in its present form.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

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2932.

APPROVAL, CONTRACT BETWEEN THE STATE OF OHIO AND THE  
HOCKING VALLEY RAILWAY COMPANY FOR THE ELIMINATION  
OF GRADE CROSSING IN THE CITY OF DELAWARE.

COLUMBUS, OHIO, November 27, 1928.

HON. HARRY J. KIRK, *Director of Highways, Columbus, Ohio.*

DEAR SIR:—I acknowledge receipt of your communication of November 24, 1928, transmitting for my approval an agreement between the State of Ohio, acting by and through the Director of Highways, and the Hocking Valley Railway Company, covering a grade elimination in State Highway No. 116 within the corporate limits of the city of Delaware, Delaware County, Ohio, on a street locally known as West Central Avenue.

I have carefully examined said contract and find that the Director of Highways has authority in law to enter into a contract containing the terms and conditions as the one submitted to me for my approval, and that the same is correct in form. I hereby approve the same.

I am returning the contract submitted to me for my approval in order that you may execute the same in behalf of the State of Ohio.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*