

action for accounting and damages will lie. In this instance publication has not yet been effected and accordingly injunction would be the proper relief. I am therefore of the opinion, it is your duty, as the officer having custody of the copyright for the use of the state, to institute an action by way of an injunction to prevent infringement of the copyright here involved. And in so doing you will of course have the co-operation of this office.

Your inquiry, however, suggests another consideration. The proposed publication is doubtless meritorious and would be of convenience and benefit to the legal profession and it should accordingly be determined whether or not, under existing law, any method exists by which the right to utilize this material can be granted. The Legislature in the enactment of 1487, G. C., supra, has not extended any right of license other than that contained in the succeeding section. You will observe that, if the contract for the printing of the official reports is let, Section 1488 provides "The Contractor shall have the exclusive right to publish such reports during the term of the contract." By this language the contractor is licensed to publish the reports during the term of the contract, but this would of course only extend during the period of the contract. There being no statutory authority in you to license anyone other than the contractor, I am of the opinion that whatever rights exist under the copyright in question reside in the state and that you have no power to license the publication in this instance.

I have further searched the statutes for any general authority residing in any other officer, board, commission or court to grant the use of the copyrighted material, but I have reached the conclusion that no such right exists. Accordingly, if any licenses should be granted for the publication of such material, it must be by action of the Legislature.

In answering your inquiry I have not in any way attempted to ascertain whether in each instance the copyright secured by the Supreme Court reporter was effected in accordance with the law. That is to say, I am not passing upon any questions with relation to the formalities attendant upon the securing of copyright, but am assuming that they were in each instance properly obtained. Summarizing and by way of specific answer to your inquiry, I am of the opinion that the publication of the Ohio State reports, as proposed in this instance, including as it does those portions of the reports which are the work of the official reporter and for which copyrights have been obtained by such reporter for the use of the state, would constitute an infringement of such copyrights as are now in existence and that it is the duty of the Supreme Court reporter to bring action to enjoin such infringement. The right to publish the official copyrighted reports, in so far as such reports are subject to copyrights, can only be secured from the state by action of the Legislature.

Respectfully,

EDWARD C. TURNER,

*Attorney General.*

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2432.

APPROVAL, CONTRACT BETWEEN STATE OF OHIO AND THE WHEELING AND LAKE ERIE RAILWAY COMPANY FOR GRADE SEPARATION PROJECT NEAR VALLEY JUNCTION STATION, TUSCARAWAS COUNTY, OHIO.

COLUMBUS, OHIO, August 7, 1928.

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

DEAR SIR:—This is to acknowledge receipt of your communication under date of August 3, 1928, enclosing duplicate contract by and between the State of Ohio,

acting through you as Director of Highways, and the Wheeling and Lake Erie Railway Company, relating to a separation of the grade at the point where Inter-county Highway No. 70 crosses the right of way of said railway company near Valley Junction Station in Tuscarawas County, Ohio.

In examining the provisions of said contract it is noted that the same contains a recital of a finding and determination by George F. Schlesinger as Director of Highways and Public Works of the State of Ohio, with respect to the necessity of said grade crossing separation project under the authority of the provisions of House Bill No. 35, 110 O. L. 231, the pertinent sections of which were carried into the General Code as Sections 6956-37 and 6956-38. These sections of the General Code were repealed by the Norton-Edwards Act which went into effect January 2, 1928.

I am advised by your department, however, that the proceedings relating to this project were initiated, and the finding and determination of the Director of Highways and Public Works made prior to the effective date of the act repealing Sections 6956-37 and 6956-38, General Code. In view of these facts, Sections 6956-37 and 6956-38, General Code, are applicable to all of the proceedings relating to this project. An examination of the contract does not disclose anything therein inconsistent with the provisions of said sections of the General Code, or otherwise in conflict with the law.

I am therefore of the opinion that said duplicate contract should be and the same is hereby approved.

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

2433.

APPROVAL, SYNOPSIS OF PROPOSED LAW AMENDING SECTIONS OF  
THE GENERAL CODE RELATIVE TO THE ELECTION AND QUALIFI-  
CATIONS OF COUNTY OFFICERS AND TERMS OF OFFICE.

*SYLLABUS:*

*Approving synopsis of proposed law amending Section 2558 and other sections of the General Code relative to the election and qualifications of county officers and providing four year terms for such officers.*

COLUMBUS, OHIO, August 8, 1928.

MR. CHARLES H. HUBBELL, *Attorney at Law*, 630 *Engineers Bldg.*, *Cleveland, Ohio.*

DEAR SIR:—You have submitted to me under date of July 28, 1928, for my certification under the provisions of Section 5175-29e, General Code, a synopsis of a proposed law to be embodied in an initiative petition. The pertinent part of Section 5175-29e is as follows:

“Whoever proposes to file an initiative or referendum petition may submit to the attorney general a fair and impartial synopsis of such proposed law or amendment and if such synopsis is a truthful statement of the contents and purpose of such proposed law or amendment he shall so certify. Such synopsis together with the Attorney General's certification may be printed in capital letters immediately following the notice provided for in Section 5175-29f. The text of the proposed law or amendment shall be printed in full at the end of each part of the petition.”