

Opinion No. 57-200

August 12, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Paul L. Billhymer, Assistant Attorney General

TO: Hon. Natalie Smith Buck, Secretary of State, State of New Mexico, Santa Fe, New Mexico

QUESTION

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1. In view of the copyright of certain portions of the 1953 Statutes Annotated together with Supplements thereto owned by the West Publishing Company and not assigned to the State by the publisher because they are not owned by him, may a New Mexico printing company duplicate the portions of that Compilation dealing with election laws?

2. If not what can be used?

CONCLUSIONS

1. No. See Opinion.

2. See opinion.

OPINION

ANALYSIS

We assume that the plan is to allow a publisher to copy the 1956 Election Code Edition printed by Allen Smith Company, making only changes necessitated by 1957 amendments. This can not be done.

Allen Smith Company has a copyright on this edition, which was assigned to the New Mexico Compilation Commission. However, this copyright does not cover certain material contained in the volume, - namely, West Key Number System, Citations to American Jurisprudence, and Corpus Juris Secundum. The right to use these was secured specially, and no New Mexico publisher could use the same without having first secured permission to use them from copyright holders. Also, if any of the headnote annotations have been copied from the West Reporter Series or New Mexico Reports, beginning with Volume 36, permission would have to be secured from the West Company inasmuch as they hold copyright on these also. In answer to your first question it is readily apparent that a New Mexico printer can not copy this present Volume in toto making only changes as are required by 1957 amendment.

In answer to question 2, we believe that a New Mexico publisher can use all Allen Smith Company's material except West Key Number System, American Jurisprudence, Corpus Juris Secundum and any headnote citations which were copied from West Reporter System, and New Mexico Reports beginning with Volume 36. This last mentioned restriction would require a check of each headnote citation beginning with Volume 36 of New Mexico Reports, and all other headnote annotations which refer to the West Reporter System to determine whether the one used by Allen Smith Company were copied from such reports.