

Opinion No. 34-808

September 18, 1934

BY: E. K. NEUMANN, Attorney General

TO: Mr. W. E. Kerr, Superintendent, Artesia Public Schools, Artesia, New Mexico.

{*156} We have your letter of September 14, 1934. You state that the Artesia schools have been using a copyrighted system of school records published by the World Book Company of New York. You wish to know if the purchase of such supplies from a firm not a resident of this state nor authorized to do business in this state is a violation of Chapter 32, Laws of 1934.

In the case mentioned by you I take it that it would be impossible to secure these supplies from a person or firm in this state since they are copyrighted by the World Book Company.

In the first place, I wish to state that it is my opinion that Chapter 32, Laws of 1934 is unconstitutional for the reason that the subject of this Act was not included in the Governor's Proclamation calling the special session of the eleventh legislature. If that be true, then Chapter 150, Laws of 1933 is still in effect and would apply to this case. However, Chapter 150 provides that such contracts shall be awarded to residents of this state "whenever practicable." In the case mentioned by you it would not be practicable since the supplies cannot be purchased in this state at all.

Even supposing that Chapter 32, Laws of 1934 is valid I doubt if it would apply in this case. Certainly the legislature did not intend to prevent the purchase of supplies from non-residents which cannot be obtained within the state.

Notwithstanding my opinion in this letter, I call your attention to Section 3, Chapter 32, Laws of 1934 which provides certain penalties for violation of the law. Some risk would necessarily be involved if its terms are not complied with.

By: QUINCY D. ADAMS,

Asst. Attorney General