

2281.

PUBLICATION OF NOTICES—MEANING OF PHRASE “NEWSPAPER PUBLISHED AND OF GENERAL CIRCULATION IN A MUNICIPALITY.”

SYLLABUS:

1. *To meet the requirements of a “newspaper published and of general circulation in a municipality” in which the council of a municipal corporation is authorized to make legal publications, as provided by Section 4228, General Code, it is necessary that the newspaper have at least one side thereof printed in the municipality.*

2. *If no English newspaper is published in the municipality, the council of such municipality may publish the municipal ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published in any English newspaper having a general circulation in the municipality or by posting, as provided in Section 4232, General Code.*

COLUMBUS, OHIO, June 26, 1928.

HON. LYNN B. GRIFFITH, *Prosecuting Attorney, Warren, Ohio.*

DEAR SIR:—This will acknowledge receipt of your request for my opinion with reference to the following:

“The Cortland Home News is a weekly paper, entered at the post office at Cortland, Ohio, with an office in the Village of Cortland, and editor who resides in that village. The paper has a general circulation in the Village of Cortland, which village is in the same county as Warren. The circulation of this paper is a bona fide paid circulation.

The council of the village advanced the idea that they cannot accept and pay for legal notices in this paper, in view of the fact that the paper is not printed in the village, but is printed in Warren, the county seat, which is ten (10) miles distant.

Quære: 1. Does the law require the council to publish ordinances, and other legal notices in this paper?

2. Are all the ordinances passed by the village council invalid that have not been published in this paper, it being the only local paper in the village?

I might say that this is the only paper that is published and mailed in the Village of Cortland.”

Section 4228, General Code, as amended by the 87th General Assembly (112 O. L. 159), reads as follows:

“Unless otherwise specifically directed by statute, all municipal ordinances, resolutions, statements, orders, proclamations, notices and reports, required by law or ordinance to be published, shall be published as follows: In two English newspapers of opposite politics *published* and of general circulation in such municipality, if there be such newspapers; if two English newspapers of opposite politics are not *published* and of general circulation in such municipality, then in one such political newspaper, and one other English newspaper *published* and of general circulation therein; if no English newspaper is

published and of general circulation in such municipality, then in any English newspaper of general circulation therein or by posting as provided in Section forty-two hundred thirty-two of the General Code; at the option of council. Proof of the *publication* and required circulation of any newspaper used as a medium of publication hereunder shall be made by affidavit of the proprietor of either of such newspapers, and shall be filed with the clerk of council." (Italics the writer's.)

Section 6255, General Code, reads as follows:

"Whenever any legal publication is required by law to be made in a newspaper or newspapers published or printed in a municipality, county, or other political subdivision, the newspaper or newspapers used shall have at least one side thereof printed in such municipality, county, or other political subdivision; and whenever any legal publication is required by law to be made in a newspaper or newspapers of general circulation in a municipality, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used, such publication shall be made in a newspaper or newspapers at least one side of which is printed in such municipality, county, or other political subdivision, unless there be no such newspaper or newspapers so printed, in which event, only, such publication shall be made in any newspaper or newspapers of general circulation therein."

The only change made by the recent amendment of Section 4228, *supra*, is, that the word "published" where italicized, formerly read "printed," and the word "publication" italicized, in the last sentence, read "place of printing."

Upon consideration of the changes made by the amendment of Section 4228, *supra*, in 1927, it was held in Opinion No. 1036 rendered by this office to the Bureau of Inspection and Supervision of Public Offices under date of September 22, 1927, that:

"The amendment of Section 4228, General Code, as made by the 87th General Assembly, has no practical effect so far as the designation of newspapers for the publication of municipal ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published, is concerned."

It appears from your statement that the "Cortland Home News" is a paper of general circulation in the Village of Cortland, and I assume that it is an English newspaper, but that no part of it is printed in the Village of Cortland, and therefore does not meet the requirements of the statute as to being published or printed in the Village of Cortland. It further appears that no English newspaper is *printed* and of general circulation in the Village of Cortland.

It will be observed that the statute provides that if no English newspaper is published and of general circulation in a municipality, the publication enumerated in Section 4228, General Code, may be made in any English newspaper of general circulation in the municipality, or by posting, as provided by Section 4232 of the General Code.

Inasmuch as no English newspaper is printed and of general circulation in the Village of Cortland, and the Cortland Home News is of general circulation therein, the requirements of the statute are met if the publication be made in the Cortland Home News as being "any English newspaper of general circulation therein."

It follows that publication of the ordinance of the Village of Cortland may be made in the Cortland Home News if council sees fit to do so, or in any English newspaper of general circulation in the village. That is to say, that inasmuch as there is no English newspaper *printed or published* and of general circulation in the village, and the Cortland Home News is an English newspaper of general circulation in the village, the publication of ordinances may be made in that paper. However, council is not required to publish the ordinances in that paper, but may publish them in any English newspaper of general circulation in the community, and I assume that there are other English newspapers of general circulation in the Village of Cortland, or council may publish ordinances by posting, in the manner prescribed by statute.

Specifically answering your question therefore, I am of the opinion:

First, the law does not require the council of the Village of Cortland to publish their ordinances and other legal notices in the Cortland Home News, but council may publish them in that paper if it desires to do so.

Second, there being no English newspaper published and of general circulation in the Village of Cortland, as the term "published" is defined by Section 6255, General Code, council may publish ordinances and other legal notices in any English newspaper of general circulation in the village, or they may publish the same by posting, in the manner prescribed by statute.

Respectfully,
EDWARD C. TURNER,
Attorney General.

2282.

BLIND—WHO IS NEEDY BLIND PERSON—LIABILITY OF PARENTS
FOR SUPPORT OF MINOR CHILDREN, DISCUSSED—SECTION 2965,
GENERAL CODE, CONSTRUED.

SYLLABUS:

1. *By the terms of Section 2965, General Code, before one may be deemed a needy blind person, so as to be entitled to relief authorized by law, he must be a person (1) who, by reason of loss of eyesight, is unable to provide himself with the necessities of life and who has not sufficient means of his own to maintain himself and (2) who, unless extended the relief authorized by law, would become a charge upon the public or upon those not required by law to support him.*

2. *In Ohio a parent is under legal as well as moral obligation to provide reasonably for the support of his minor child, until the latter is in a condition to provide for his own support.*

3. *Whether or not the parent's duty to support his minor child terminates upon the child's coming of age, where the child is unmarried and living in his father's home and is unable, by reason of physical or mental infirmity, to provide for himself, has never been passed on by the courts of this state; although both reason and the weight of authority support the view that where a child is of weak body or mind and, by reason thereof, unable to care for himself after coming of age, and remains unmarried and living in his father's home, the parental rights and duties remain practically unchanged.*

4. *Whether or not a person is a needy blind person to whom relief should be extended, as authorized by Section 2965 and related sections of the General Code, is*