

## OPINION NO. 71-048

**Syllabus:**

1. Where the only newspaper published in a village is owned by the husband of a village councilwoman, such newspaper is not prevented from publishing legal notices of the village.

2. Where the only newspaper published in a village is owned by the husband of a village councilwoman, such councilwoman may take reportorial notes during council sessions as a basis for articles to be published in said newspaper concerning such sessions.

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**To: Bernard W. Freeman, Huron County Pros. Atty., Norwalk, Ohio**  
**By: William J. Brown, Attorney General, September 1, 1971**

Your request for my opinion states that the only newspaper published in a village is owned by the husband of a village councilwoman. The councilwoman is also a reporter for the newspaper. The questions posed are: (1) do these facts present such a conflict of interest as would prevent the newspaper from publishing legal notices for the village, and (2) is it permissible for the councilwoman to take notes at the council meetings which she later uses as the basis for newspaper reports of said meetings?

Section 731.12, Revised Code, sets out the qualifications of members of a legislative authority and provides, in part, as follows:

"\* \* \*[n]o member of the legislative authority shall hold any other public office, be interested in any contract with the village or hold employment with said village\* \* \*."

Section 731.21, Revised Code, prescribes the method of publishing all village legal notices. It provides as follows:

"All municipal ordinances, resolutions, statements, orders, proclamations, notices, and reports, required by law or ordinance to be published, shall be published as follows:

"(A) In two English newspapers of opposite politics, published and of general circulation in the municipal corporation, if there are any such newspapers;

"(B) If two English newspapers of opposite politics are not published and of general circulation in the municipal corporation, then in one such political newspaper and one other English newspaper published and of general circulation therein;

"(C) If no English newspaper is published and of general circulation in the municipal corporation, then in any English newspaper of general circulation therein or by posting as provided in section 731.25 of the Revised Code, at the option of the legislative authority of such municipal corporation. Proof of the publication and required circulation of any newspaper used as a medium of publication as provided by this section shall be made by affidavit of the proprietor of either of such newspapers, and shall be filed with the clerk of the legislative authority."

In view of the necessity for publication of legal notices and the strict statutory regulation of the rates to be charged therefor (Section 7.10, Revised Code), my predecessors have held that the facts stated in your request present no prohibited conflict. The Syllabus at Opinion No. 1159, Opinions of the Attorney General for 1916, reads, in part, as follows:

"When but one newspaper is printed in a municipality in which said newspaper\* \* \*the publication of ordinances and other matters therein specified is required to be made, the fact that an officer of the municipality is interested in said newspaper does not disqualify it from making said publication nor does said publication make said officer liable\* \* \*"

The Opinion pointed out, at page 7, that there was no opportunity for dishonesty under the circumstances, since:

"In the cases here presented the consideration to be paid for the publication required by the statutes under consideration is fixed by statutory law and no exercise of discretion or judgment is required of any official in determining what medium shall be selected for the publication of any ordinance because there is but one medium in each case through and in which said publication may be made."

This Opinion was reinforced by Opinion No. 1598, Opinions of the Attorney General for 1928, the Syllabus of which reads as follows:

"A member of a village council who owns the only English newspaper published and of general circulation in the village may legally be paid

the legal rate for publication of the village ordinances, resolutions, statements, orders, proclamations, notices and reports which are required by law or ordinance to be published."

Since a village's only newspaper, which is owned by a member of the village council, may publish legal notices, it follows that the fact that a councilwoman is the wife of the newspaper's owner, and is employed by the newspaper, would not prohibit the newspaper from publishing legal notices.

Your second question concerns the taking of notes by the councilwoman for later use in newspaper reporting. Section 731.46, Revised Code, provides, in part, that meetings of the legislative authority of a municipal corporation "\* \* \*shall, at all times, be open to the public." Since the meeting of the village council is, by statute, open to the public, there would be no violation if the councilwoman reports what occurs.

In specific answer to your question, it is my opinion, and you are so advised that:

1. Where the only newspaper published in a village is owned by the husband of a village councilwoman, such newspaper is not prevented from publishing legal notices of the village.

2. Where the only newspaper published in a village is owned by the husband of a village councilwoman, such councilwoman may take reportorial notes during council sessions as a basis for articles to be published in said newspaper concerning such sessions.