

be registered after having made application and successfully passed an examination as to qualifications as set forth in Section 6302, General Code.

2. Any person who is employed for the purpose of operating a motor vehicle, and so operates a motor vehicle must be registered as a chauffeur.

Respectfully,

GILBERT BETTMAN,

Attorney General.

1444.

PUBLICATION—DELINQUENT TAX LIST—DEMOCRATIC DAILY PAPER NOT EXISTING IN COUNTY—AUDITOR SHOULD PUBLISH SUCH LIST IN A REPUBLICAN DAILY ONLY.

SYLLABUS:

Under the provisions of Section 5704, General Code, where there is a daily newspaper representing the political party casting the highest vote at the last state election, but no daily newspaper representing the party casting the next highest vote at said election, publication of delinquent tax list should be made in the one daily.

Under such state of facts, there is no authority for the publication of such notice in a weekly paper representing the party casting the next highest vote.

COLUMBUS, OHIO, January 25, 1930.

HON. HOWARD M. NAZOR, *Prosecuting Attorney, Jefferson, Ohio.*

DEAR SIR:—Acknowledgment is made of your communication which reads:

“Section 5704 of the General Code of Ohio provides that ‘each county auditor shall cause a list of delinquent lands in his county to be published once a week for two consecutive weeks, between the twentieth day of December, and the second Thursday in February, next ensuing, in one daily newspaper in the English language, of the political party casting the largest vote in the state at the last general election, and in one daily English newspaper of the political party casting the next largest vote in the state at the same election, both published in the county, and of general circulation therein. If there be no such daily newspaper published in the county, then in two weekly English newspapers published and circulated therein, if there are two such papers published;’ * * *

Ashtabula County has several Republican papers, some of them daily and some of them weekly newspapers, but only one Democratic paper is printed in the county, being published weekly.

Would it be proper under this section to have the delinquent tax list published in the Republican daily paper and also in the Democratic weekly paper? Your early advice on this matter will be appreciated.”

In an opinion of the Attorney General found in the Opinions of the Attorney General for the year 1920, page 558, an analysis was made of Section 5704, General Code, which then read the same as it now reads. Among other things, it is stated in said opinion that:

“Under this amendment publication of the delinquent list should be made in the newspapers and in the order following, viz.:

First: Two daily newspapers in the English language of the two political parties casting the largest vote in the state at the last general election, and published in the county and of general circulation therein, etc.;

Second: If there are not two such daily newspapers, but one only, then publication should be made in that one only;

Third: If there be no such daily newspaper, then in two weekly English newspapers published and circulated therein, if there be two such papers published; if not, then in one such weekly English newspaper;

Fourth: If there be no such weekly newspapers published and circulated therein, then in two tri-weekly English newspapers published and circulated therein, if there are two such papers published; if not, then in one such tri-weekly English newspaper; or

Fifth: If there be no such tri-weekly English newspaper published and circulated therein, then in two semi-weekly English newspapers published and circulated therein, if there are two such papers published; if not, then in one such semi-weekly English newspaper."

From the foregoing it would appear that there are definite methods provided for in connection with the publication of the delinquent tax list. When there are two daily newspapers, one representing the party casting the largest vote in the last state election and one representing the party casting the next largest vote, it shall be published in both. If there is but one such daily, then the publication shall be made therein, and apparently there is no authority for further publication in a weekly paper or a paper of other character. In other words, the statute treats first with the publication in daily newspapers. After providing for the publication in two dailies, when they have the status as set forth in the statute, it provides that in the event there is only one daily available for such purpose the publication shall be made therein. In the event there is no such daily wherein publication could be made, then the statute outlines the course of procedure with reference to publication in weekly newspapers.

Inasmuch as you state there are Republican dailies, and in view of the former interpretation of the section above mentioned, it would appear that there is no authority for publication in the Democratic weekly. Of course, there could be no objection to making such publication in the weekly newspaper insofar as giving notice is concerned; however, such procedure, in view of the former opinion, probably would cause the Bureau of Inspection to raise a question as to whether or not such an expenditure of public funds would be legal.

In specific answer to your inquiry it is my opinion that under the provisions of Section 5704, General Code, where there is a daily newspaper representing the political party casting the highest vote at the last state election, but no daily newspaper representing the party casting the next highest vote at said election, publication of delinquent tax list should be made in the one daily. Under such state of facts, there is no authority for the publication of such notice in a weekly paper representing the party casting the next highest vote.

Respectfully,

GILBERT BETTMAN,
Attorney General.