

"Any bonds reciting that they are issued pursuant to this law, complying on their face with the provisions thereof, issued for a lawful purpose within the limitations prescribed by law, and for which the fiscal officer of the subdivision shall have been paid in full, shall in any action or proceeding involving their validity be conclusively deemed to have been issued, sold, executed and delivered in conformity herewith and with all of the provisions of statutes applicable thereto and shall be incontestible unless such action or proceeding is begun prior to the delivery of such bonds."

Inasmuch as the bond forms contain the language above referred to, comply on their face with the provisions thereof and are issued for a lawful purpose within the limitations prescribed by law, and inasmuch as it appears that the fiscal officer has been paid in full for said bonds, and inasmuch as each of said transcripts contains a certificate, signed by the mayor and village clerk, to the effect that no litigation of any nature was pending or threatened, restraining or enjoining the issuance and delivery of said bonds at the date of such certificate, it would seem that said bonds are incontestible in any action or proceeding involving their validity.

You are therefore advised that notwithstanding the defect in the manner of sale of said bonds above pointed out, I am of the opinion that said defect cannot be hereafter set up and the purchase of the above bonds by you is therefore approved.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1758.

PUBLICATION—ANNUAL REPORT OF FISCAL OFFICER OF MUNICIPAL CORPORATION—SECTION 4228, GENERAL CODE DISCUSSED.

*SYLLABUS:*

*The provisions of Section 4228, General Code, do not apply to the publication of the annual report of the fiscal officer of a municipal corporation, but such report is required to be published in a newspaper published in the municipality and if there be no such newspaper, then in a newspaper of general circulation in such municipality as required by Section 291, General Code.*

COLUMBUS, OHIO, February 24, 1928

*Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.*

GENTLEMEN:—This will acknowledge receipt of your recent communication as follows:

"The pertinent part of Section 291 as amended, 112 O. L. page 355, reads:

'On or before the thirty-first day of March annually, the chief fiscal officer of each political subdivision or taxing district of each county shall prepare a financial report for the preceding fiscal year, in such form as will

comply with the requirements of the bureau of inspection and supervision of public offices, and shall cause same to be published in a newspaper published in the political subdivision or taxing district and if there is no such newspaper, then in a newspaper of general circulation in the district or political subdivision.'

Section 4228, G. C., as amended, 112 O. L. 159, requires publication of reports, etc., in two newspapers of opposite politics unless otherwise specifically provided by law.

QUESTION: Must the annual financial report of the fiscal officer of a municipal corporation be published in two newspapers of opposite politics, if there be such published and of general circulation in the municipality?"

Section 4228, General Code, as amended in 112 O. L. page 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 newspaper; 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."

In your letter you quote the pertinent provisions of Section 291, as amended in 112 O. L. 355. These two sections are in *pari materia* and must be construed together. An examination of the two sections clearly reveals that they are not in any way inconsistent. Section 291 is a special section containing specific requirements for the publication of financial reports of political subdivisions. On the other hand, Section 4228 is a general statute applicable to the publication of municipal proceedings and, by its terms, its provisions are not applicable if publication is "otherwise specifically directed by statute." Since Section 291 constitutes a specific direction as to the publication of the financial report, that section governs and the terms of Section 4228 are not applicable.

This conclusion must be reached irrespective of the dates upon which these sections were passed. By reference to 112 Ohio Laws, however, I find that they were both passed by the Legislature on the same day and, manifestly, therefore, the interpretation which I have adopted is proper.

You are therefore advised that the provisions of Section 4228, General Code, do not apply to the publication of the annual report of the fiscal officer of a municipal corporation, but that such report is required to be published in a newspaper published in the municipality, and if there be no such newspaper, then in a newspaper of general circulation in such municipality as required by Section 291, General Code.

Respectfully,

EDWARD C. TURNER,  
*Attorney General.*