

cated upon the normal expectancy of life. On this hypothesis it is arguable that William, Francis and Elinor are to be considered as the successors of their respective distributive shares when final distribution is made, because their expectancies of life run beyond the period of distribution.

This theory is believed to be incorrect. It is not sustained by any of the cases from other jurisdictions in which similar statutes are found, which cases have been frequently cited in other opinions to the commission.

Respectfully,

JOHN G. PRICE,
Attorney-General.

2085.

NEWSPAPERS—WORD "CIRCULATION" AS USED IN SECTION 6251
G. C. CONSTRUED.

The word "circulation", as used in the proviso to section 6251 G. C., which prescribes rates of charges for legal advertisements, means the bona fide circulation of the issue of the newspaper in which the advertisement is published.

COLUMBUS, OHIO, May 18, 1921.

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

GENTLEMEN:—Your letter of recent date relative to the meaning of section 6251 G. C., was duly received.

After conferring with Mr. Halbedal, one of your deputy supervisors, I understand that the question you desire answered is whether or not the word "circulation", as used in the proviso of the section, means the average daily circulation of the newspaper, or the circulation of the particular issue or issues of the paper in which the legal advertisement is published.

Section 6251 G. C. reads as follows:

"Publishers of newspapers may charge and receive for the publication of advertisements, notices and proclamations required to be published by a public officer of the state, county, city, village, township, school, benevolent or other public institution, or by a trustee, assignee, executor or administrator, the following sums, except where the rate is otherwise fixed by law, to-wit: For the first insertion, one dollar for each square, and for each additional insertion authorized by law or the person ordering the insertion, fifty cents for each square. Fractional squares shall be estimated at a like rate for space occupied. In advertisements containing tabular or rule work fifty per cent may be charged in addition to the foregoing rates. Providing, however, newspapers having a circulation of over one hundred thousand shall charge and receive for such advertisements, notices and proclamations, rates charged on annual contracts by them for like amount of space to other advertisers who advertise in its general display advertising columns."

The statute, it will be observed, makes no attempt to restrict or limit the meaning of the word "newspapers" to any particular kind or class of newspapers. The word obviously includes any newspaper qualified to publish legal advertisements, whether it be published daily, semi-weekly, tri-weekly or weekly, and re-

ardless of the day or days of the week on which it may be published. It will also be noted that this statute does not require that a newspaper in which a legal advertisement is published, shall have any particular circulation. In fact, all that the statute does is to provide rates of charges, all other matters being left to other statutes.

It would seem, therefore, that the amount a newspaper is entitled to charge and receive under section 6251 G. C. for a particular advertisement, whether it be one requiring one or more insertions, will depend upon the bona fide circulation of the issue of the newspaper in which each insertion is published. In other words, and by way of illustration,

(a) If the circulation of each issue in which the advertisement is published is 100,000 or less, the charge (except for tabular or rule work, or where the rate is otherwise fixed by law) would be one dollar per square for the first insertion, and fifty cents per square for each additional insertion,—fractional squares to be estimated at a like rate for space occupied. For advertisements containing tabular or rule work, fifty per cent may be charged in addition to the foregoing rates;

(b) If the circulation of each issue in which the advertisement is published be over 100,000, the charge for each insertion may be the rates charged by the newspaper on annual contracts for like amount of space to other advertisers who advertise in the newspaper's general display advertising columns;

(c) If during the publication of an advertisement required to be published two or more times, the circulation of the newspaper fluctuates from 100,000 more or less, the total amount that could be charged for a completed advertisement would be the sum of the several amounts the newspaper is entitled to charge for each insertion,—each one of the several amounts making up the total charge to be computed according to the rate applicable to the particular issue of the newspaper in which the advertisement was published, as set out in paragraphs (a) and (b), supra. That is, when the circulation of any particular issue was over 100,000, the rate applicable thereto would apply, and when 100,000 or less, the rate applicable to that circulation would apply, etc., and the sum of all would be the total charge.

Your inquiry does not involve any question as to what particular qualifications a newspaper shall possess in order to be entitled to publish legal advertisements, or in what particular newspaper legal advertisements may be published, for as already stated, all that section 6251 G. C. deals with are rates of charges that may be made by newspapers qualified to publish legal advertisements. Such questions can only arise under statutes which make provision for the publication of legal advertisements, none of which are involved at this time.

You are therefore advised that the word "circulation", as used in the proviso to section 6251 G. C., means the bona fide circulation of the issue of the newspaper in which the legal advertisement is published.

Respectfully,
JOHN G. PRICE,
Attorney-General.