

A paper of general circulation is one not devoted to any single or particular object, but is devoted to matters pertaining to and of concern to the whole community and of public and common interest. The purposes to which the paper is devoted must be of common interest to many."

It is not necessary to subscribe to all of the tests noted in the authorities above cited in order to reach the conclusion that the publication mentioned in the question submitted by you is not a newspaper of general circulation within the meaning of Section 2293-28, General Code. In any county bond buyers are a very small part of the whole number of persons in such county ordinarily reached by a newspaper of general circulation. Therefore, I am of the opinion that the question submitted by you must be answered in the negative.

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

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1345.

APPROVAL, FINAL RESOLUTIONS ON ROAD IMPROVEMENTS IN ALLEN AND GEAUGA COUNTIES, OHIO.

COLUMBUS, OHIO, December 9, 1927.

HON. GEORGE F. SCHLESINGER, *Director, Department of Highways and Public Works, Columbus, Ohio.*

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1346.

GRAND JURY—RIGHT TO REQUIRE PRODUCTION OF BALLOTS IN INVESTIGATION OF CRIMES.

*SYLLABUS:*

*Grand jury has right to require the production of ballots in the custody of election officials in connection with grand jury's investigation of crimes and offenses.*

COLUMBUS, OHIO, December 10, 1927.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter requesting my opinion as follows:

"We are enclosing herewith a request from the Board of Deputy State Supervisors of Elections for Lucas County for information.

As the subpoena is returnable December 12th may we have information sufficiently early to advise them?"

Accompanying your letter and to which you refer is one from the board of deputy state supervisors and inspectors of elections of Toledo, Ohio, as follows:

"In an investigation being conducted by the Attorney General before a special grand jury of Lucas County, a subpoena duces tecum has been issued to Dennis F. Sullivan, Jacob A. Lehnertz, F. B. Jones, C. Burton Nickels, and W. C. Clark to appear before said grand jury on Monday, December 12, and bring with them the ballots voted at the last regular election in the City of Toledo.

As Section 5090-1A of the General Code provides for the preservation of ballots under the seals affixed by the precinct booth officials and prohibits the opening of the sealed ballots except in open court and in the presence of the board, and only in proceedings of contested election pending in court, members of this board desire to have a ruling as to whether they are permitted to part with the custody of these ballots or permit the same to be opened in a proceeding pending before a grand jury.

Inasmuch as the proceedings referred to are being conducted by assistants of the Attorney General, and the Attorney General is the legal adviser of the Secretary of State, we suggest that his ruling in this matter be procured."

I know of no ruling of law, statutory or otherwise, which would prevent a grand jury from examining any ballots which might contain evidence of crime. I am not unmindful of the statutes of the state which control the opening of the ballots for the purpose of election contests and the decisions of the courts thereupon. Such provisions, however, have no application to the question which you present. I am therefore of the opinion that it is the duty of the election officials in charge of ballots to produce them under a proper subpoena from a grand jury.

However, by reference to the written direction of the Governor to the Attorney General under date of November 7, 1927, it will be found that the Attorney General was directed as follows:

"You are directed hereby to conduct a grand jury investigation of alleged registration frauds in connection with tomorrow's election at Toledo."

Being of the opinion that an examination of the ballots would not be either necessary or helpful in determining any matters connected with registration frauds, and being of the further opinion that this present inquiry is limited strictly by the written direction of the Governor to an investigation into registration frauds, I am instructing my first assistant and special counsel in charge of the grand jury investigation in Lucas County to withdraw the precipe for subpoena duces tecum to Dennis F. Sullivan, et al.

If the grand jury under the direction of the Prosecuting Attorney should require these ballots in the investigation of any alleged crimes in connection with the election or otherwise, I am of the opinion that it would be the duty of the officials in charge thereof to obey a subpoena duces tecum.

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