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LEGAL PUBLICATIONS — POPULATION, CIRCULATION —  
§7.11 R.C. — COUNTY SEAT — NEWSPAPERS OF OPPOSITE  
POLITICS .

## SYLLABUS:

Section 7.11, Revised Code, requires that certain proclamations, orders and notices (1) be published in two newspapers of opposite politics published at the county seat, if two such papers are published at such county seat, and (2) that, in counties having cities of eight thousand population or more, not the county seats of such counties, additional publication of such proclamations, orders and notices shall be made in each such other city in two newspapers of opposite politics and, as to any such other city, of general circulation therein, regardless of the place at which such newspapers are physically produced.

Columbus, Ohio, April 20, 1959

Hon. Earl W. Allison, Prosecuting Attorney  
Franklin County, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“Two newspapers of opposite politics, within the meaning of Section 7.11, Revised Code, are published in the county seat of this county. These same two newspapers are in general circulation in all municipalities in the county. There are five (5) cities, other than the county seat, in this county of eight thousand inhabitants and in each of which *one* newspaper is published and is of general circulation in the city of publication.

“The treasurer of this county has asked me numerous questions on the legal requirements for the publication of tax rates.

The board of elections has submitted related questions on the advertising requirements where a political subdivision presents questions of a bond issue, under Section 133.09, Revised Code, or a tax levy outside the 10 mill limitation, under Section 5705.25, Revised Code, to the voters. I have considered Opinion No. 4092, Opinions of the Attorney General for 1932, page 264, and Opinion No. 1657, Opinions of the Attorney General for 1933, page 1521. It would seem that the General Assembly intended to change the law, as found in such opinions, when it amended what is now Section 7.11, Revised Code, in 119 Ohio Laws, 588. However, I am in doubt of the effect of such amendment, as applied to the facts existing in this county, since, as amended the statute still requires "*additional* publication" in cities of eight thousand inhabitants.

"Therefore, in consideration of the facts set forth in the first paragraph above, would you please advise me how the rates of taxation must be advertised? Also, when an election is held in a political subdivision on the question of a bond issue or a tax levy must the advertising of such elections comply with the provisions of Section 7.11, Revised Code, as well as those specifically set forth in Sections 133.09 and 5705.25, Revised Code, respectively?"

Section 7.11, Revised Code, to which you refer, reads as follows:

"A proclamation for an election, an order fixing the time of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors, and such other advertisements of general interest to the taxpayers as the county auditor, county treasurer, probate judge, or board of county commissioners deems proper shall be published in two newspapers of opposite politics of general circulation as defined in section 5721.01 of the Revised Code *at the county seat if there are such newspapers published thereat*. If there are not two newspapers of opposite politics and of general circulation published in said county seat, such publication shall be made in one newspaper published in said county seat and in any other newspaper of general circulation in said county as defined in Section 5721.01 of the Revised Code, wherever published, without regard to the politics of such other newspaper. In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, *additional publication of such notice shall be made in two newspapers of opposite politics and of general circulation in such city* as defined in such section. For purposes of this section, a newspaper independent in politics is a newspaper of opposite politics to a newspaper of designated political affiliation. Sections 7.10 to 7.13, inclusive, of the Revised Code do not apply to the publication of notices of delinquent and forfeited land sales."

(Emphasis added)

The rulings of 1932 and 1933 to which you refer are as follows:  
1932 Syllabus:

“In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of the notice of rates of taxation must be made for six consecutive weeks in two newspapers of opposite politics in each such city.”  
1933 Syllabus:

“1. Where there are not two newspapers of opposite politics published in a city of over eight thousand population in a county, but there are two non-partisan newspapers published in such city and of general circulation in the county, the county treasurer should publish the notices of the rates of taxation in those two newspapers as a compliance with the terms of sections 6252 and 2648, General Code, and the said treasurer may not, at his own discretion, insert the tax rates in either of such newspapers.

“2. Question of whether or not a certain newspaper, on the facts submitted, is a newspaper of general circulation in a county, discussed.”

At the time of the writing of these opinions the prior analogous statutory provision was found in Section 6252, General Code. This section then read:

“‘A proclamation for an election, an order fixing the times of holding court, notice of the rates of taxation, bridge and pike notices, notice to contractors and such other advertisements of general interest to the taxpayers as the auditor, treasurer, probate judge or commissioners may deem proper, shall be *published* in two newspapers of opposite politics *at the county seat*, if there be such newspapers *published thereat*. In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notices *shall be made in two newspapers of opposite politics in such city*. This chapter shall not apply to the publication of notices of delinquent tax and forfeited land sales.’” (Emphasis added)

The language first emphasized above, *i.e.*, “published \* \* \* at the county seat”, and “published thereat”, quite clearly requires publication in two newspapers which are published, in the sense of being physically produced, “at” the county seat.

The provision in the next following sentence, as to cities of eight thousand inhabitants other than the county seat, is somewhat differently worded, *i.e.*, it is required that “publication \* \* \* shall be made \* \* \* in

such city". It could be argued that the use of varying terms indicate a varying meaning and that "publication \* \* \* in" a particular city is accomplished when the newspaper is of general circulation in such city, for the verb "publish" may signify merely to "proclaim".

We may concede, however, that this language as formerly found in Section 6252, General Code, was ambiguous; and we are not now required to interpret it.

That ambiguity appears to have been resolved, however, in the 1941 amendment of this statute. See 119 Ohio Laws, 588. As then amended the provision in question was changed to read as follows:

"\* \* \* In counties having cities of eight thousand inhabitants or more, not the county seat of such counties, additional publication of such notice shall be made in two newspapers of opposite politics of general circulation in such city as defined in said above-mentioned section. \* \* \*"

This language, in my opinion, clearly requires only that the publication, "additional" to that required in the initial sentence in this section, shall be in a newspaper which is "of general circulation in such city" without regard to the place *at* which it is physically produced. Such "additional" publication requirement is not satisfied, of course, by the publication in the two newspapers published *at* the county seat, for the word "additional" plainly requires publication in newspapers other than these.

It is my opinion, therefore, that Section 7.11, Revised Code, requires that certain proclamations, orders and notices (1) be published in two newspapers of opposite politics published at the county seat, if two such papers are published at such county seat, and (2) that, in counties having cities of eight thousand population or more, not the county seats of such counties, additional publication of such proclamations, orders and notices shall be made in each such other city in two newspapers of opposite politics and, as to any such other city, of general circulation therein, regardless of the place at which such newspapers are physically produced.

Respectfully,

MARK MCELROY

Attorney General