

4. An assessment for the construction of the Richmond-Pravo Road amounting to \$601.32, payable in twelve instalments of \$50.06 each, the next instalment being payable in December, 1927, is a lien.

The abstract does not show any examination in the United States Court, and the examination of the judgment indexes in the Clerk's and Sheriff's offices for judgment liens only goes back as far as 1910.

The deed has been executed by Marcellus S. Dye and Mary E. Dye, his wife, under date of August 29, 1927, and acknowledged before a Notary Public. The deed recites that Mary E. Dye and Eva M. Dye are one and the same person and that her true name is Mary E. Dye. The deed when delivered will pass good title to the State of Ohio.

The abstract of title and deed are herewith returned to you.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1036.

PUBLICATION OF MUNICIPAL ORDINANCES NOT AFFECTED BY
AMENDMENT OF SECTION 4228, GENERAL CODE, 87TH GENERAL
ASSEMBLY.

SYLLABUS:

The amendment of Section 4228, General Code, as made by the 87th General Assembly, has no practical effect so far as the designation of newspapers for the publication of municipal ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published, is concerned.

COLUMBUS, OHIO, September 22, 1927.

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

GENTLEMEN:—This will acknowledge receipt of your inquiry, as follows:

“House Bill No. 283 O. L. 112 amended Sec. 4228, G. C., and provides for the publication of all municipal ordinances etc., in two newspapers of opposite politics published and of general circulation in such municipality if there be such newspapers; if two English newspapers 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, etc.

This section formerly provided for publication of ordinances etc., in newspapers printed and of general circulation in the municipality and it is not clear to us just what is meant by publication in newspapers published and of general circulation in such municipality.

Section 6255, G. C., was not amended and provides that:

'Whenever any legal publication is required by law to be made in a newspaper or newspapers published or printed in a municipality, county or other political subdivision, the newspaper or newspapers used shall have at least one side thereof printed in such municipality, county or other political subdivision; and whenever any legal publication is required by law to be made in a newspaper or newspapers of general circulation in a municipality, county, or other political subdivision, without further restriction or limitation upon a selection of the newspaper to be used, such publication shall be made in a newspaper or newspapers at least one side of which is printed in such municipality, county, or other political subdivision, unless there be no such newspaper or newspapers so printed, in which event, only, such publication shall be made in any newspaper or newspapers of general circulation therein.'

The village of Mt. Victory is located in Hardin County, Ohio, and the 'Mt. Victory Observer,' a weekly newspaper of general circulation in the village, is printed in West Mansfield, Logan County, Ohio, and delivered to the postoffice at West Mansfield as second class matter. We have been informed that the clerk of the village at Mt. Victory publishes ordinances, etc., in newspapers published and printed in Kenton, Ohio, but which presumably are of general circulation in Mt. Victory. There is no newspaper printed in this village.

QUESTION: Must the ordinances, etc., of the village of Mt. Victory be published in the Mt. Victory Observer?

This is a matter of general interest and your early consideration thereof will be appreciated."

Section 4228, General Code, as amended by the 87th General Assembly, (112 O. L. 159) reads as follows:

Sec. 4228. "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 newspapers; 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." (Italics the writer's.)

The only change made by the recent amendment of the above statute is that the word "published" where italicized, formerly read "printed", and the word "publication" italicized in the last sentence, read "place of printing".

The statute as enacted in 96 O. L. page 60 used substantially the same language as now, so far as the use of the word "published" is concerned. The change from the word "published" to "printed" was made in 1915 (106 O. L. 493.)

Prior to 1915, Section 6255 as amended in 1911 (102 O. L. 487) provided:

“for sufficient publication of a notice or advertisement required by law to be published for a definite period at least one side of the newspaper in which such publication is made shall be printed in the county or municipal corporation in which such notice or advertisement is required to be published.”

This statute was originally passed in 1877 (74 O. L. 208), in substantially the same form as after the amendment of 1911, and before the amendment of 1915. In 1915 at the same time, and as a part of the same act, when the change from the word “published” to the word “printed” was effected in Section 4228, General Code, Section 6255, General Code was enacted in its present form and as you have quoted it in your letter.

It will be observed that at the time of the last amendment of Section 6255, General Code, the words “or printed” were inserted after the word “published” and that this was done at the same time the word “printed” was substituted for the word “published” in Section 4228, General Code.

The apparent intent of the law since 1877, has been that a newspaper, one side of which is printed in the political subdivision making a local publication, satisfies the law requiring publication in a newspaper either required to be published or printed in the political subdivision.

It seems apparent that the reason the words “or printed” were inserted after the word “published” in Section 6255, General Code, at the time of its amendment in 1915, was because the word “printed” had been substituted for the word “published” in the amendment of Section 4228, General Code, and that it was done for the purpose of avoiding any controversy over the matter. As the change made in the recent amendment to Section 4228, General Code, was merely to change the wording of the statute back to what it was before 1915, and Section 6255, General Code, which was not changed by the last Legislature covered provisions requiring either publication or printing, no change has been effected by the recent amendment.

In the particular instance about which you inquire, no part of either the Mt. Victory Observer or the Kenton paper is printed in the village of Mt. Victory, and therefore neither one of them meets the requirements of the statute as to being published or printed in the village of Mt. Victory.

You therefore have a situation where “no English newspaper is printed and of general circulation in such municipality,” and publication may therefore be made “in any English newspaper of general circulation therein.”

I am therefore of the opinion that if a newspaper published and printed in Kenton, Ohio, is of general circulation in the village of Mt. Victory, and there is no newspaper, one side of which is printed in the village, the ordinances of the village may be printed in the Kenton paper or in any other English newspaper of general circulation in the village.

Respectfully,
EDWARD C. TURNER,
Attorney General.