

It is my opinion that where but one English newspaper is published in the municipality, whether it be a political paper or not, publication of municipal ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published should be published in that paper. In fact if we do not so interpret the law, there is no provision which directs how publication shall be made under such circumstances, as it is only when *no* English paper is published and of general circulation in the municipality that permission is given by the terms of either Section 4228, *supra*, or Section 4232, General Code, to make publication in any English newspaper of general circulation, or by posting.

Upon reviewing the Opinion of 1916 above referred to, I see no reason to question the reasoning thereof, and inasmuch as the law with respect to publication, where but one English newspaper is printed and of general circulation in the municipality, is the same at the present as it was at that time, I am of the opinion that the conclusions reached in said opinion are applicable at the present time.

It will be observed that the Opinion of 1916 gave no consideration to the terms of Section 4218, *supra*. The opinion dealt with municipal officers generally, and made no reference to the forfeiture of office by councilmen who became interested in any contract with the village. It did, however, consider the penal provisions of Section 3808, *supra*, and 12912, General Code, in their applicability to situations of this kind. In so far as the question here involved is concerned, there can be no difference in principle between the forfeiture of office imposed as a penalty by Section 4218, *supra*, and disqualification to hold office or a fine and imprisonment imposed by Section 3808 or Section 12912, General Code. In either case, a penalty is imposed for the doing of certain acts and if these acts do not constitute a violation of one section they do not of the other.

I am, therefore, of the opinion that a village may legally pay to the publishers of a newspaper the legal rates for publication of its ordinances, resolutions, statements, orders, proclamations, notices and reports required by law or ordinance to be published, if it is the only newspaper published and of general circulation in the village even though the owner of the paper is a member of the village council.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1599.

BOND—PUBLIC OFFICER—PAYMENT OF PREMIUM DISCUSSED.

SYLLABUS:

1. *The provisions of House Bill No. 40, 112 O. L. 111, amending certain sections of the General Code, relating to the bonds to be given by county officers, and providing that the premiums on surety company bonds given by such county officers shall be paid by the county commissioners out of the general county fund, are applicable to the payment of premiums on surety company bonds given by such county officers after said provisions became effective, although such officers were elected before the enactment and effective date of said statutory provisions.*

2. *A like construction should be given to the provisions of Section 9573-1, General Code, as enacted in 112 O. L. 135; and the premium of any duly licensed surety company on the bond of any public officer, deputy or employe executed and given after the effective date of said statute, should be allowed and paid by the state, county, township,*

municipality or other subdivision or board of education of which such person so giving such bond is an officer, deputy or employe. although such officer, deputy or employe was elected or appointed before the enactment and effective date of said statute.

COLUMBUS, OHIO, January 19, 1928.

HON. ELMER L. GODWIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:—This is to acknowledge receipt of your recent communication requesting my opinion as follows:

“Section 9573-1 (112 O. L. 135) provides that the state, county, township, municipality or other subdivision or board of education shall allow and pay the premium on the bond of any public officer.

Does this apply to the payment of the premium of an officer who was elected in November, 1926, to a county office, the premium on the bond being due and payable on the second year of the term, namely, 1928? In other words, does this apply to officers who were elected prior to the time the above section of the General Code was enacted and took effect?”

Section 9573-1, General Code, as enacted by House Bill No. 333, 112 O. L. 135, and referred to in your communication, reads as follows:

“The premium of any duly licensed surety company on the bond of any public officer, deputy or employe shall be allowed and paid by the state, county, township, municipality or other subdivision or board of education of which such person so giving such bond is such officer, deputy or employe.”

Statutory provisions likewise applicable to the consideration of the question submitted by you are Sections 2399, 2559, 2633, 2751, 2784, 2824, 2868 and 2911 of the General Code, as amended by the enactment of House Bill No. 40, 112 O. L. 111. These sections as amended relate to the bonds to be given by county commissioners, county auditor, county treasurer, county recorder, county surveyor, sheriff, coroner, clerk of the common pleas court, and prosecuting attorney, in order to qualify for their respective offices. By the provisions of these sections, which, as amended, became effective July 18, 1927, the option is given to each of said county officers, other than the county treasurer, to give a bond signed by a bonding or surety company authorized to do business in this state, or by two or more freeholders having real estate in the value of double the amount of the bond over and above all encumbrances. As to the county treasurer, it is provided that he shall give bond in such sum as the commissioners direct, with two or more bonding or surety companies as sureties, or at his option, with four or more freehold sureties having real estate in the value of double the amount of the bond over and above all encumbrances.

With respect to the bond to be given by each of said county officers, it is provided that

“The expense or premium for such bond shall be paid by the county commissioners and charged to the general fund of the county.”

Section 9573-1, General Code, it may be noted, makes like provision with respect to bonds executed by officers, deputies and employes of the state or any of its subdivisions, and requires the premium of any duly licensed surety company on the bond of any public officer, deputy or employe to be allowed and paid by the state, county,

township, municipality or other subdivision or board of education of which such person giving such bond is such officer, deputy or employe.

Although prior to the legislation of the last General Assembly above referred to, it was a common practice for many county officers to give bond signed by some duly authorized surety or bonding company under the authority of Section 9573, General Code, no provisions were made for the payment by the county of the premiums on such bonds other than those on such bonds given by county treasurers, which were required to be paid by the county commissioners out of the general county fund.

The question here presented for my opinion is whether the statutory provisions above noted, requiring the county commissioners to pay out of the general county fund the premiums on surety company bonds given by any or all of the above named county officers, are applicable to such bonds given by county officers elected at the November, 1926, election. I know of no provision or principle of law which limits the application of said statutory provisions to bonds given by county officers elected after said provisions became effective. Clearly a person elected to any of said county offices at the November, 1926, election, who qualified and entered upon his office after said statutory provisions became effective, could give a surety company bond and have the premiums therefor paid by the county commissioners out of the general county fund. Moreover, inasmuch as said statutory provisions requiring the premiums on a surety bond given by a county officer to be paid out of the county treasury is not a matter which affects the salary of such officer, I know of no reason why said statutory provisions could not apply to the premiums on a surety company bond given by a county officer after said statutory provisions became effective, even though he had previously given bond and entered upon the discharge of the duties of his office. This question was the subject of consideration in Opinion No. 761 of this department, addressed to Hon. John W. Loree, Prosecuting Attorney, Celina, Ohio, under date of July 21, 1927. The specific question to which said former opinion of this department was addressed was whether or not, under House Bills Nos. 40 and 333, above referred to, the bond of a surety company could be given for the unexpired term of an officer as a substitute for a personal bond theretofore filed by such officer and approved; and whether the premium on such substituted surety company bond was required to be paid by the political subdivision. Responsive to this question it was held that there was no statute which prevents any officer from executing a new bond and releasing the sureties of the old bond from further liability after the time of such a release and the execution of a new bond, provided the new bond be approved by the officer or officers who under the law must approve such bond; and that the premium on a surety company bond so substituted was required to be paid by the political subdivision taking such bond.

By way of specific answer to your question, therefore, I am of the opinion that the provisions of Section 9573-1, General Code, as well as those of House Bill No. 40, above noted, apply to premiums on surety bonds given by county officers after said provisions became effective, although said officers were elected prior to the enactment and effective date of said statutory provisions.

Respectfully,

EDWARD C. TURNER,
Attorney General.

1600.

APPROVAL, BONDS OF VALLEY RURAL SCHOOL DISTRICT, SCIOTO COUNTY, OHIO—\$110,000.00.

COLUMBUS, OHIO, January 19, 1928.

Retirement Board, State Teachers' Retirement System, Columbus, Ohio.