

“When the Constitution prescribes the manner in which a thing shall be done or a fact ascertained by implication, it prohibits the Legislature from by statute providing a different manner—the one prescribed in the Constitution is exclusive of all other modes.”

In my opinion your stated question must be answered in the negative because action by the legislature to accomplish the purpose contemplated by your question would violate Article VI, Section 24 of the Constitution of 1963 and therefore void.

FRANK J. KELLEY,
Attorney General.

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NEWSPAPER: Qualifications for publishing of legal notices.

A newspaper which qualifies for the publication of legal notices is not deprived of its qualification as such by the practice of the publisher in combining the news, editorial and advertising content published therein with additional advertising in another publication under a different name, which is distributed separately without charge to all boxholders in the community.

No. 4192

December 16, 1963.

Mr. C. Homer Miel
Prosecuting Attorney
Montcalm County
Stanton, Michigan

You have requested my opinion as to whether a certain newspaper published under the name “X News” in a city in your county qualifies for the publication of legal notices under RJA § 1461, as amended by Act No. 246, P.A. 1963, and under Act No. 247, P.A. 1963. By RJA you refer to the revised judicature act of 1961, being Act No. 236, P.A. 1961, as amended.¹ Section 1461, as amended, defines the term “newspaper,” which definition reads in pertinent part as follows:

“(1) The term ‘newspaper’ as used in the revised judicature act of 1961 shall be construed to refer only to a newspaper published in the English language for the dissemination of local or transmitted news and intelligence of a general character or for the dissemination of legal news, which

“(a) has a bona fide list of paying subscribers or has been published at not less than weekly intervals in the same community without interruption for at least 2 years,

“(b) has been established, published, and circulated at not less than weekly intervals without interruption for at least 1 year in the county where the court is situated. * * *

“(c) annually averages at least 25% news and editorial content per

¹ C.L.S. 1961 § 600.101 et seq., M.S.A. 1962 Rev. Vol. § 27A.101 et seq.

issue. The term 'news and editorial content' for the purpose of this section means any printed matter other than advertising.

"* * *"

Act No. 247 contains a similar definition of a "newspaper" for the purpose of publication of notices required by other statutes, aside from the revised judicature act of 1961. Necessity for the adoption of Act No. 247 was occasioned by the limitations of the title of RJA.

You advise that "X News" is printed in the English language and disseminates local news of a general character. Further, that the news and editorial content annually averages at least 25% per issue. This newspaper has been published at weekly intervals and circulated in its local area without interruption for four years.

The "X News" has a bona fide list of approximately 40 paid subscribers. You point out that neither act specifies a minimum number of paid subscribers.

Recital of the above facts evidences compliance with each of the requirements specified by the above-quoted statutory definition contained in Act No. 246. Qualification under Act No. 247 to print notices required to be published in a newspaper of general circulation in a given city, township or village other than that in which it is published would, of course, be dependent upon "X News" having been of general circulation therein for at least one year, as required by subparagraph (b) of that act.

You further advise that your question arises by reason of the practice followed by the publisher in combining the news, editorial and advertising content published in each issue of the "X News" with additional advertising in a distinct and separate publication entitled "X" which each week is separately distributed free to all boxholders in the area by third class mail. The "X" has news and editorial content of less than 25% and has no paid subscribers.

I am in accord with your conclusion that the "X News" complies with each of the requirements enumerated in the above quoted statute for a newspaper qualified to publish legal notices. The fact that the publisher also publishes another paper which does not qualify and in which the same news, editorial and advertising content is combined with additional advertising does not deprive the "X News" of its qualification.

FRANK J. KELLEY,
Attorney General.