

3493.

APPROVAL, BONDS OF MAD RIVER RURAL SCHOOL DISTRICT, MONTGOMERY COUNTY, \$5,000.00.

COLUMBUS, OHIO, June 30, 1926.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

3494.

APPROVAL, BONDS OF VILLAGE OF SOUTH EUCLID, CUYAHOGA COUNTY, \$120,940.00.

COLUMBUS, OHIO, July 1, 1926.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

3495.

DISAPPROVAL, BONDS OF FRANKLIN TOWNSHIP RURAL SCHOOL DISTRICT, DARKE COUNTY, \$95,000.00.

COLUMBUS, OHIO, June 30, 1926.

Re: Bonds of Franklin Township Rural School District, Darke County, \$95,000.00.

Department of Industrial Relations, Industrial Commission of Ohio, Columbus, Ohio.

GENTLEMEN:—The transcript for the foregoing issue of bonds recites that the bonds are to be issued under the provisions of sections 7625 to 7628 and 5649-9a of the General Code, and other provisions of the General Code of Ohio, and have been approved by more than fifty-five per cent of the electors of said district.

The election for the issuance of these bonds was held at a special election on February 16, 1926, on the statutory provision that in case the school building has been destroyed by fire, such election should be held at other than the November election.

The transcript contains affidavits of the members of the board of education which set forth the fact that the notice of this special election was not published as required by section 5649-9b of the General Code. This section provides as follows:

"The election shall be held at the regular place for voting in such district at such November election, and shall be conducted, canvassed and certified in the same manner as regular elections in such taxing district for the election of officers thereof. Notice of the election shall be published in one or more newspapers printed and of general circulation in the subdivision once a week for four consecutive weeks prior thereto stating the amount of the proposed bond issue, the purpose for which it is to be issued, and the maximum number of years during which said bonds shall run, and the estimated average additional rate outside of the limitations of section 5649-5b as certified by the county auditor. If no newspaper of general circulation is printed in said subdivision, the notice shall be posted in two conspicuous places therein at least thirty days prior to the election and published once a week for four consecutive weeks in one or more newspapers of general circulation in the district."

The foregoing provision for such election is section 3 of House Bill No. 175 as passed by the 86th General Assembly. Section 6 of this act provides that upon the approval of the Tax Commission of Ohio, the submission of such question may be had at a special election, and thereupon, the requirements of sections 2, 3 and 4 of the act would apply.

The mandatory provisions of section 5649-9b G. C. are therefore necessary in giving the notice of the election whether general or special as required therein.

Section 4839 of the General Code prior to the enactment of House Bill No. 175 provided:

"The clerk of each board of education shall publish a notice of all school elections in a newspaper of general circulation in the district, or post written or printed notices thereof in five public places in the district at least ten days before the holding of such election."

Section 7625 of the General Code adopted this method of notice upon the election for school bonds. It will therefore be observed that the legislature has specifically intended to provide for the publication of a notice of such election for four consecutive weeks in one or more newspapers of general circulation in the district.

The Supreme Court in the case of *Cincinnati vs. Puchta, Mayor*, 94 O. S., 431, held that under a similar statute that required notice of an election for four consecutive weeks, a publication for twenty-six days was not in strict compliance with the provisions of the statute, but that there was sufficient compliance, and for that reason, such election was approved.

The court also stated in the opinion:

"We do not hold that in all cases such would be a sufficient compliance with the law, but in the absence of any allegation here that anybody was denied the right to vote, by reason of the statute not being literally complied with for the full thirty days, the regularity of the election proceedings is upheld."

It is evident from this conclusion of the court that the absolute failure to meet the mandatory requirements of a statute will be fatal to the legality of the bonds.

For this reason I cannot approve the legality of the issue as submitted to the electors when the mandatory requirements as to the notice that shall be given to such electors is not in conformity with the statute.

You are therefore advised that these bonds do not constitute legal and valid obligations of the school district, and you are advised not to accept the same.

Respectfully,
C. C. CRABBE,
Attorney General.

3496.

APPROVAL, ARTICLES OF INCORPORATION OF "THE TOLSTOI MUTUAL AID SOCIETY."

COLUMBUS, OHIO, July 1, 1926.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am returning to you herewith the articles of incorporation of "The Tolstoi Mutual Aid Society," with my approval endorsed thereon.

Respectfully,
C. C. CRABBE,
Attorney General.

3497.

ELECTIONS—DECLARATION OF CANDIDACY—BOARD SHOULD NOT REJECT FOR MERE TECHNICAL DEFECTS WHEN IT IS POSSIBLE TO DETERMINE FOR WHICH OFFICE THE DECLARANT IS A CANDIDATE.

SYLLABUS:

Declarations of candidacy should not be rejected for mere technical defects when the Board of Deputy State Supervisors and Inspectors of Elections are able to determine from the petition the office for which the declarant is a candidate.

COLUMBUS, OHIO, July 2, 1926.

HON. THAD H. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—I am in receipt of your communication enclosing papers from the Franklin County Board of Deputy State Supervisors and Inspectors of Elections, which papers include a declaration of candidacy for member of County Central Committee and a copy of the minutes of such board with respect to such declaration of candidacy.

The declaration of candidacy submitted herewith is on a form prescribed and furnished by the Board of Elections and is filled out correctly in all particulars, except as to the office for which the declarant is a candidate. This paragraph reads as follows:

"I hereby declare myself a candidate for election to the position of member of the Franklin County Central Committee from Prec. A—2nd Ward, Columbus, Ohio, in said county, to be made at the Primary Election