

1143.

ROADS AND HIGHWAYS—SECTION 6926-2 G. C. (108 O. L. 501) CON-  
 STRUED—NOTICE OF ELECTION ONCE A WEEK FOR TWO WEEKS  
 IN EACH OF TWO NEWSPAPERS IS SUFFICIENT.

*Under the terms of section 6926-2 (108 O. L. 501) an insertion of notice of election once a week for two weeks in each of two newspapers is sufficient.*

COLUMBUS, OHIO, April 9, 1920.

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

GENTLEMEN:—Your letter of recent date is received submitting for opinion the following question:

“How many publications are necessary of the advertisements required by section 6926-2 G. C., 108 O. L. 501? Is this to be published once a week for two weeks, or is it to be published 14 times, that is, every day of the two weeks?”

The section to which you refer is part of a series of three sections, known as sections 6926-1 to 6926-3, authorizing a vote upon the question of exempting from all tax limitations the levy of two mills for road improvement purposes provided by section 6926 G. C.

Section 6926-1 relates to the passage of a resolution by the board of county commissioners for the purpose of calling the election. Section 6926-2 after providing for the time of the submission of the question to popular vote and the preparation of ballots, etc., contains this sentence:

“The county commissioners shall cause to be published for two weeks in two newspapers of general circulation and of the two dominant political parties published in the county if there be any such papers published in such county, but if there be no such papers published in such county, then in two newspapers having general circulation therein, notice of such election, which notice shall state the portion of such levy to be exempted from all tax limitations, the number of years, during which such exemption is to continue in force, the division of such levy between construction and improvement purposes and maintenance and repair purposes, if any, and the time and place of holding the election.”

While a search has failed to reveal any Ohio court decision on the precise point raised by your question, the following general rule is laid down in 17 Ency. Pl. & Pr. at page 98:

“It is generally held that where a notice is required to be published for a certain number of weeks, publication once a week for that number of successive weeks is sufficient.”

The text just cited is quoted with approval and the authorities are reviewed in the case of *White vs. Multnomah County*, 74 Ore. 96 (144 Pac. 1193). In that case the law required that a sale of bonds be advertised for two weeks before sale, and the claim was being made that inasmuch as the advertisement was inserted in daily newspapers rather than in weekly newspapers, the notice should have been inserted in every issue of such daily newspapers during the two weeks' period. The court, however, refused to adopt such view, and held that a notice published once a week for two successive weeks prior to the time fixed for opening the bids and selling the bonds was sufficient.

In conformity with the general rule above indicated, and with the Oregon case cited, you are advised that said section 6926-2 G. C. does not require fourteen insertions in each newspaper, but requires only an insertion once a week for two weeks in two newspapers.

The construction given is in line with the general tenor of the statutes of Ohio as to newspaper publication, namely, that publication is to be made on a weekly rather than on a daily basis. The statement just made is particularly true with reference to the road laws. See sections 1206; 1214; 6912; 6922; 3298-7; 3298-15a; 3298-32 and 3298-41.

It is quite true that the several statutes just named are more definite in their terms as to number of insertions than is the section about which you inquire; but it is believed that the reasons herein given are sufficient to show that the intent of the legislature as to the latter section is that the standard to be applied is the week rather than the day.

Respectfully,

JOHN G. PRICE,  
*Attorney-General.*

1144.

ROADS AND HIGHWAYS—WHEN COUNTY NOT LIABLE FOR ITEMS REPRESENTING BALANCE OF CONTRACT PRICE AND VALUE OF "EXTRA WORK"—NO AUTHORITY TO ISSUE BONDS TO REIMBURSE CONTRACTORS FOR LOSSES DUE TO INCREASE OF FREIGHT RATES BY GOVERNMENTAL ACTION.

1. *Under facts as stated in opinion, county not liable for items representing balance of contract price, and value of "extra work." If the commissioners pay such items, however, there can be no recovery back by the county.*

2. *Bonds may not be issued for the purpose of providing funds for reimbursement of contractors as authorized by act 108 O. L. 548, on account of losses due to increase of freight rates by governmental action.*

COLUMBUS, OHIO, April 9, 1920.

HON. EDWARD GAUDERN, *Prosecuting Attorney, Bryan, Ohio.*

DEAR SIR:—You have submitted for the opinion of this department the following:

"On August 29th, 1917, the board of county commissioners of Williams county, Ohio, entered into a contract for the construction of the Marks Road, so-called, at the contract price of \$72,269.00.

To finance this road the county commissioners sold \$70,000.00 of bonds at a premium of \$627.00 and transferred to the Marks Road fund \$2,100.00 from inter-county highway No. 306 fund of Jefferson township.

I. C. H. No. 306 of Jefferson township was a road, at that time, completed. There was more than \$6,000.00 at the time in the I. C. H. No. 306 fund unexpended and not required to meet any outstanding obligations or contracts in respect to I. C. H. No. 306. Thirty-five per cent of the cost of constructing I. C. H. No. 306 was paid by Williams county.

The cost of constructing the Marks road was divided as follows: Twenty-five per cent to Williams county, thirty-five per cent to Madison township and forty per cent to the land owners.