

2421.

DISAPPROVAL—BONDS, VILLAGE OF COLDWATER, MERCER COUNTY, OHIO, \$15,000.00.

COLUMBUS, OHIO, May 9, 1938.

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

GENTLEMEN:

RE: Bonds of Village of Coldwater, Mercer County,
Ohio, \$15,000.00.

I have examined the transcript relative to the above bond issue and with to advise you as follows:

There appears in the transcript a publisher's affidavit of notice signed by one S. L. Hoyng to the effect that the notice of election was published in the Mercer County Chronicle on October 8, 15, 22 and 29, 1937. Although this affidavit does not have attached thereto a copy of the inserted notice, I am taking the affidavit as to the dates of insertion as conclusive.

Section 2293-21, General Code, provides among other things that the notice of election shall be published in one or more newspapers of general circulation in the subdivision once a week for four consecutive weeks prior to the date of election. In the immediate case, the first publication was had October 8, which is twenty-five days prior to the day of the election, that is November 2, 1937. In the case of *State, ex rel, vs. Commissioners*, 122 O. S. 456, the court held that the publication of notice of an election upon the question of issuing bonds is mandatory and the same should conform and be in compliance with the provisions of Section 2293-21, General Code. In the case of *State vs. Kuhner and King*, 107 O. S. 406, the court construed the word "for" to mean the duration rather than the number of insertions.

Inasmuch as this issue does not involve federal participation, I am therefore of the opinion that the irregularity in the publication of the election notice is such as to materially affect the validity of these bonds, and advise your system against the purchase of the same.

Respectfully,

HERBERT S. DUFFY,
Attorney General.