

910.

DISAPPROVAL, BOND ISSUE, HARDIN COUNTY IN THE SUM OF  
\$27,000.

COLUMBUS, OHIO, January 3, 1920.

*Industrial Commission of Ohio, Columbus, Ohio.*

Re: Bonds of Hardin county in the amount of \$27,000.00 for the Preston-McBride county pike improvement, being one bond of \$6,000.00 and three bonds of \$7,000.00 each.

GENTLEMEN:—I have examined the transcript of the proceedings of the county commissioners relative to the above bond issue and decline to approve the validity of said bonds for the following reasons:

(1) The transcript discloses that the county commissioners failed to publish for the required length of time before the date set for hearing objections to said improvement the notice required by section 6912 G. C. The language of this section is that such notice shall be published "once a week for two consecutive weeks." The hearing was held August 11, 1919, and the notice was published, as shown by the proof of publication attached to the transcript, on July 29th and August 7th of the same year. Two full weeks or fourteen days should have intervened between the first publication and the date of the hearing.

In the case of *Fenner vs. City of Cincinnati*, 8 N. P. 340, Judge Smith, of the superior court of Cincinnati, in special term, held (quoting from the syllabus):

"Where a statute provides that municipal bonds can only be issued 'After advertising the same for sale once per week for four consecutive weeks of the same day of the week in some newspaper of general circulation in such city,' no sale of such bonds can be had until notice of four weeks or twenty-eight days shall have been given; and the statute is not complied with where an advertisement is inserted on the 8th, 15th, 22d and 29th of the month calling for sealed bids to be submitted on or before 12 o'clock on the 31st."

This decision was reversed by the same court in general term (see same report, p. 342). The supreme court of Ohio on October 15, 1901, in case No. 7473, without reported opinion, reversed the judgment of the superior court and affirmed the judgment of Judge Smith rendered in special term. Therefore the rule laid down by Judge Smith must be taken as the holding of the supreme court of Ohio.

I believe that the interpretation laid down by Judge Smith in the case referred to is applicable to the language used in section 6912 G. C., and that the notice there required must be published once a week for two full weeks or fourteen days prior to the hearing.

(2) The transcript shows that notice of the hearing of September 19, 1919, upon the schedule of estimated assessments as prepared by the engineer, was published on September 11th and 19th of the same year. Section 6922 G. C. requires this notice to be published "once a week for two consecutive weeks." For the reasons stated in the preceding paragraph I do not believe the notice given meets the requirements of section 6922 G. C.

For the reasons set forth above, I am of the opinion that said bonds are not valid obligations of Hardin county, and advise that you decline to accept them.

Respectfully,

JOHN G. PRICE,

*Attorney-General.*