

1520.

DISAPPROVAL, BONDS OF SUGAR CREEK TOWNSHIP RURAL SCHOOL DISTRICT, TUSCARAWAS COUNTY--\$6,000.00.

COLUMBUS, OHIO, January 4, 1928.

Re: Bonds of Sugar Creek Township Rural School District, Tuscarawas County, \$6,000.00.

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

GENTLEMEN:—The transcript pertaining to the above issue of bonds reveals that notice of the election on said bonds, to be held on November 8, 1927, was published in the "Weekly Budget" on October 13, 1927, and continued therein for four consecutive weeks. The first publication falling on October 13 and the election falling on November 8, it is evident that the first publication was had less than four full weeks or twenty-eight days prior to the election.

Section 2293-21, General Code, requires publication of the notice of election once a week for four consecutive weeks prior thereto, and in construing similar language in a statute requiring the Director of Highways to advertise for two full weeks prior to receiving bids, the Supreme Court of Ohio held in the second branch of the syllabus, in the case of *State vs. Kuhner & King*, 107 O. S. 406:

"The requirement of Section 1206, General Code, that 'the state highway commissioner shall advertise for bids for two consecutive weeks,' is mandatory, and a contract entered into on June 14, after advertisement in two weekly newspapers of the county on June 6 and June 13, is invalid."

In construing the language "the state highway commissioner shall advertise for bids for two consecutive weeks," the court said on page 415:

"In our opinion the word 'for' has some significance as used in this statute, and applying the dictionary meaning thereof, which seems to us clearly indicated by the context as that most likely meeting the intent of the legislature, such advertisement is required 'during the continuance of' or 'throughout' the period of two weeks."

I am not unmindful of the case of *City of Cincinnati vs. Puchta, Mayor*, 94 O. S. 431, in which the court held the publication of a notice of election for four weeks, covering a period of twenty-six days prior to the election, a legal compliance with Section 3946, General Code, which required thirty days' notice of the election in one or more newspapers printed in the municipality once a week for four consecutive weeks prior thereto. The Supreme Court held the election valid on the ground that there was no allegation that anybody was denied the right to vote by reason of the statute not being literally complied with.

While I am not entirely satisfied that a court would hold the election in the instant case invalid because of the failure to comply literally with the provisions of Section 2293-21, General Code, in the matter of newspaper publication of the notice of election, I feel that the pronouncement of the Supreme Court in the *Kuhner & King* case, *supra*, compels me, in the absence of a holding by a proper court that the failure to publish for the statutory period in the instant case did not

result in the denial to anyone of his right to vote and was of no legal significance, to advise you not to purchase the above issue of bonds.

Respectfully,
EDWARD C. TURNER,
Attorney General.

1521.

DOG—REGISTRATION TAG—KENNEL LICENSE—“FARMING OUT” OF
DOGS FROM KENNEL DISCUSSED.

SYLLABUS:

An owner of a duly registered kennel of dogs may use the five registration tags, issued under the provisions of Section 5652-1, General Code, in connection with the kennel license, upon any dogs owned in good faith by such licensee. The mere fact that such dogs are temporarily “farmed out” to individuals other than the kennel owner does not require that such dogs be separately registered, provided such dogs wear one of the several registration tags issued to such kennel owner.

COLUMBUS, OHIO, January 4, 1928.

HON. ELMER L. GODWIN, *Prosecuting Attorney, Bellefontaine, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter dated December 30, 1927, which reads:

“Section 5652-1 (108 O. L. 534) is as follows:

Every owner of a kennel of dogs bred or kept for sale shall in like manner as in Section 5652 provided, make application for the registration of such kennel, and pay therewith to the county auditor a registration fee of \$10 for such kennel. Provided, however, the owner of such dog kennel, shall, in addition to paying such kennel fees, comply with all of the requirements of Section 5652 with respect to every dog more than three months of age belonging to such dog kennel not kept constantly confined in such kennel.

Section 5652-1 (112 O. L. 347) reads as follows:

Every owner of a kennel of dogs bred or kept for sale shall in like manner as in Section 5652 provided, make application for the registration of such kennel, and pay therewith to the county auditor a registration fee of \$10 for such kennel. Provided, however, that the payment of such kennel license fee shall entitle the holder thereof to not more than five tags to bear consecutive numbers and to be issued in like manner and have like effect when worn by any dog owned in good faith by such licensee, with the tags provided for in Section 5652-4 of the General Code of Ohio.

You will note that the last amended section eliminates the words ‘not kept constantly confined in such kennel.’ The question I am submitting to you for opinion is this:

Can a person who has taken out a kennel license farm out the dogs,—that is, separate them and place them under the control of other individuals without the person with whom they are placed registering said dogs as provided in Section 5652, G. C.?”