

Election for County Bonds, Publication of Notice. Bonds, Publication of Notice of Election for. Notice of Election, How Required to Be Published. Proclamation of Election, How Published.

Where a notice of proclamation of election is required to be published for a certain period of time, it must appear in each regular issue of the paper in which it is published for that entire period.

February 21st, 1913.

Hon. State Board Land Commissioners,
Helena, Montana.

Gentlemen:

I return herewith, without my approval, transcript proceedings had by Yellowstone County, relative to the issuance of coupon bonds in the amount of \$50,000, bearing interest at a rate not to exceed six per cent., for the purpose of "building, furnishing and equipping a county jail at Billings, Yellowstone County, Montana," the specific objection being that the election proclamation was not published as required by the order of the board of county commissioners, that part of the order relating to the publication being as follows:

"Also publish this order as a proclamation of this election for a period of thirty days prior to the election held on November 5, 1912."

The proofs of publication show that this proclamation was published in a daily newspaper, to-wit: "The Billings Daily Gazette," in seven different issues of said daily newspaper, prior to the said election. It seems to be well settled in law that where a notice is required to be published a certain number of days or for a definite time, it must be published in each regular issue of the paper during that period,— that is, if published in a weekly newspaper, it must be published once a week; if published in a daily newspaper, it must be published once a day, or in each regular issue of the paper if the paper is not published every day in the week.

Lawson v. Gibson et al. 18 Neb. 137.

Union Pac. Ry. Co. v. Montgomery, 68 N. W. 619.

29 Cyc. 1121.

The provisions of Sec. 454, R. C., seem to leave it optional to a large extent with the board of county commissioners as to what notice shall be given, hence, when the board has determined upon a certain time and manner of giving notice, that order must be followed. There is no question raised here as to the absence of proof that the notices of election were posted as required by Sec. 506, R. C., as that is a matter which should be determined by the board of county commissioners when it passes upon the election returns as to special proposition submitted. Nor is there any consideration here given of the provisions of Sec. 531 or the effect of the reference made in that section to the repealed Sec. 1318. That question may be found discussed in Second Lewis's Southerland Statutory Construction, Sec. 257, and in Shull v. Barton, 79 N. W. 732.

Very truly yours,

D. M. KELLY,

Attorney General.