

Opinion No. 31-136

April 24, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. E. R. Wright, Attorney at Law, Santa Fe, New Mexico.

{*67} Regarding your letter of the 17th of April, it is our belief that Chapter 201 of the Session Laws of 1929, repeals all part or parts of all bond statutes specifically in conflict therewith, within the classifications as set forth in the 1929 Act. It is our opinion that the 1929 Act is controlling; or in other words -- the last word upon the bond issues affected as classified by the Act.

This opinion is based upon Section 6 of said Act, which, in part, reads: "All acts and parts of acts in conflict herewith are hereby repealed, . . ."

In the matter of the publication of notice of time and place of sale of school bonds issued, we are doubtful that Section 3 of Chapter 201 repeals Section 120-701 of the 1929 Compilation, in so far as it pertains to notice of sale of bonds, for reason that the 1929 Act provides that such bonds (school bonds are included within the application of said act) shall be sold, "and a notice calling for bids for the purchase of said bonds shall be published **at least** once in a newspaper having local circulation and in a recognized financial journal." While Section 120-701 specifies that before bonds can be sold notice of such sale shall be published in a newspaper having general circulation throughout the county in which bonds are issued, and also in one financial newspaper published in the City of New York, "once each week for four consecutive weeks, etc." It is doubtful that this is in conflict with 1929 Act requiring publication "**at least once**" and consequently not repealed. It is our opinion in all school bond issues the better and safer practice would be to publish the notice of sale for four weeks, one publication for each week. This, however, is a matter for the buyer to consider.

We further believe that the 1929 Act supercedes the older law in so far as the publication of the notice of sale in a financial newspaper published in the City of New York is concerned, and that the words "a recognized financial journal" mean any recognized publication, such as "The Bond Buyer" and like papers, published at the greater financial centers of the country, such as New York, Chicago and Los Angeles.

The writer has always regarded the following words, in Section 3 of Chapter 201 of the 1929 Session Laws, to-wit: "Provided that in fixing a date of sale of any bonds such date shall be fixed in relation to the date of the collection of taxes for the payment of the first installment of interest," to prohibit the dating of the bonds at such a date as would cause the first semi-annual {*68} payment of interest to fall due at a time prior to the date provided by law for the payment of taxes, which taxes would carry an additional levy to meet the interest coming due. Under the present laws fixing the date for the payment of taxes, it would necessarily cause all bonds to be dated no earlier than July 1st.