

CRIMES: -- Venue for arson committed in Arkansas cannot be placed in Missouri for purposes of prosecution under Missouri law.

11-9
October 23, 1934.

Mr. J. T. Jones
State Fire Marshal
State of Oklahoma
Oklahoma City, Oklahoma.



Dear Sir:

Your request for an opinion dated October 13, 1934, reads as follows:

"On March 18, 1932 a fire occurred in the City of Okemah, Oklahoma, which was of incendiary origin. This property was owned by a citizen of Missouri who was residing in Missouri at the time the fire occurred. Shortly after the occurrence of this fire, our office made an investigation, attempting to ascertain who set the fire to this dwelling house, but without much success. However, since that time we have continued our investigation and have finally secured statements from two citizens in Missouri, stating that they were employed by the owner of this property to come to Oklahoma and burn it. Their statements or confessions state that they were paid a certain sum of money by this assured in Missouri after they had agreed with him to come down here and burn his property. That they did come to Oklahoma and burn this property, and after they returned to Missouri they were paid an additional sum by this assured.

"We desire and respectfully request that you give us an opinion as to whether or not any crime has been committed by this owner of the property in Oklahoma in the State of Missouri, and if so, what crime has been committed."

Section 4040, R. S. No. 1 929, provides:

"Any person who shall wilfully and with the intent to injure or defraud the insurer set fire to, burn or cause to be burned any goods, wares, merchandise or other chattels or personal property of any kind which shall at the time be insured by any person, persons, co-partnership or corporation against loss or damage by fire shall be deemed guilty of a felony and upon conviction therefor be punished by imprisonment in the penitentiary for not less than two nor more than five years."

Section 3377, R. S. No. 1929, provides:

"Offenses committed against the laws of this state shall be punished in the county in which the offense is committed, except as may be otherwise provided by law."

Above you see the Missouri Statutes on arson of insured property, also the Statute on venue which must be construed with the arson statute when prosecuting for said crime.

Since "arson" is the physical act which constitutes the offense, the criminal act must have a situs within the territorial confines of some county in this State, before a venue can be established, necessary as a condition precedent before the criminal courts of this State can assume jurisdiction.

This arson statute is for the government of

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persons and things within this State and the Legislature had no intention of creating the offense of arson committed without this State and regulate the conduct of persons beyond the territorial limits of this State.

CONCLUSION.

The facts stated in your letter do not state a crime over which the State of Missouri has any jurisdiction.

Respectfully submitted,

WM. ORR SAWYERS
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General.

WOS/afj