

PUBLIC ADVERTISEMENTS - Newspaper distributed gratuitously  
not qualified for legal publications.

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February 20, 1936.

Hon. C. R. Hayes,  
Prosecuting Attorney,  
Salem, Missouri.



Dear Sir:

A request for an opinion has been received from you under date of December 20, 1935, such request being in the following terms:

"There is a newspaper that has been published under the name of the "Advertiser" with free circulation and has been published weekly for more than three years to date with a circulation of around 2000, but has not been admitted to the mails under the second class rate.

Should this publication be authorized under existing postal regulations to be mailed under permit at the second class rate, would legal publications therein be permissible under existing laws of the State of Missouri?"

R. S. Missouri, 1929, Section 13775, was repealed and a new section enacted in lieu thereof by Laws of 1931, page 303, such new section providing as follows:

"All public advertisements and orders of publication required by law to be made, and all legal publications affecting the title to real estate, shall be published in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as second class matter in the city of publication; shall have been published regularly and consecutively for a period of one year; shall have a list of bona fide subscribers voluntarily en-

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"gaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time. Provided that when a public notice required by law to be published once a week for a given number of weeks, shall be published in a daily, tri-weekly, semi-weekly or weekly newspaper, the notice shall appear once a week on the same day of each week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this act. All laws or parts of laws in conflict with this section, except sections 13777, 13778, 13779, 7631, 7632 and 7633, Revised Statutes of Missouri, 1929, are hereby repealed."

If by the phrase "free circulation" in your letter you mean that this newspaper is distributed gratuitously, then it is not a newspaper complying with that part of Section 13775 above quoted which has been underlined, and consequently could not qualify under that section. You will observe that Section 13775 as it appears in the 1929 revision of the statutes contained no provision requiring a newspaper to be paid for to qualify as a legal publication, and apparently the addition of this requirement in the 1931 statute was directed toward disqualifying newspapers having no paying subscribers.

In conclusion, it is our opinion that a newspaper not having a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, would not be qualified to publish public advertisements and orders of publication required by law to be made, or legal publications affecting the title to real estate, so as to comply with the requirements of law of this State, and particularly Laws of 1931, page 303.

Very truly yours,

EDWARD H. MILLER  
Assistant Attorney-General

APPROVED:

ROY McKITTRICK  
Attorney-General