

JONES-MUNGER LAW:
PUBLICATION :

It is not necessary under Section 9952b, 1935
Session Acts for the Collector to make any
certification to be embodied in the publication.

October 13, 1937



Mr. Roland C. Woods
Collector of Revenue
Washington County
Potosi, Missouri

Dear Mr. Woods:

This Department is in receipt of your letter of
October 5th, wherein you make the following request for
an opinion:

"There has been a question raised in
this county as to the legality of my
publication of lands offered for sale
under the Jones-Munger law. The
publisher, to whom I gave this copy,
failed to insert at the bottom of the
list, my certificate on his first pub-
lication but later, when the mistake
was discovered made an additional run
including this certificate but as I
understand it, did not mail this entire
run to his subscription list.

Will you please render your opinion as
to whether this publication is illegal
due to the fact that the Collector's
certificate was omitted from the first
publication, with the exception of an
additional run which was not circulated
to his entire subscription list. In
your opinion, please advise what my
position should be with reference to
continuing the sale.

Apparently if this publication is
illegal, the sale of tax lands in this

county will have to be postponed this year unless some provision can be made to legalize a publication. As the time for offering this land for sale is drawing near I would appreciate your prompt advice in this matter."

Section 9952 of the Session Acts of 1933, provides in part as follows:

"It shall be the duty of the county clerk and county collector to compare the collector's record of such list of delinquent lands and lots as corrected with the corrected 'delinquent land list' made pursuant to sections 9938 and 9942, and the county clerk shall certify in the 'delinquent land list' on file in his office that same has been properly recorded in the collector's office and shall attach a certificate at the end of the record of such list of delinquent lands and lots in the collector's office that such record contains a true copy of the 'delinquent land list' on file in his office.***** such 'back tax book', and the recording of same by the collector and certification by the county clerk as herein provided, shall be construed as a making of such 'back tax book' of delinquent real estate, lands and lots."

Section 9952a, Session Acts 1933, page 430, provides in part as follows:

"All lands and lots on which taxes are delinquent and unpaid shall be subject to sale to discharge the lien for said delinquent and unpaid taxes as provided for in this act on the first Monday of November of each year, and it shall not be necessary to include the name of the owner, mortgagee, occupant or any other person or corporation

owning or claiming an interest in or to any of said lands or lots in the notice of such sale;*****The entry of record by the county collector listing the delinquent lands and lots as provided for in this act shall be and become a levy upon such delinquent lands and lots for the purpose of enforcing the lien of delinquent and unpaid taxes, together with penalty, interest and costs."

Section 9952b of the 1933 Session Acts was amended by a Section of the same number in the 1935 Session Acts at page 403 and is as follows:

"The county collector shall cause a copy of such list of delinquent lands and lots to be printed in some newspaper of general circulation and published in the county, for three consecutive weeks, one insertion weekly, before such sale, the last insertion to be at least fifteen days prior to the first Monday in November. And it shall only be necessary in the printed and published list to state in the aggregate the amount of taxes, penalty, interest and cost due thereon, each year separately stated, and the land therein described shall be described in forty-acre tracts or other legal subdivision, and the lots shall be described by number, block, addition, etc.; Provided, however, that if a part or parts of any forty-acre tract or other legal subdivision or lot is assessed on the tax books to two or more parties as owners thereof, then as to such land or lots, such list shall be so prepared and separated. To such list shall be attached and in like manner so printed and published a notice that so much of said lands and lots as may be necessary to discharge the taxes, interest and charges which may be due thereon at the time of sale will be sold at public auction at the courthouse door of such county, on the first Monday in November next thereafter, commencing at

ten o'clock of said day and continuing from day to day thereafter until all are offered. The county collector shall, on or before the day of sale, insert at the foot of such list on his record a copy of such notice and certify on said record immediately following such notice the name of the newspaper of the county in which such notice was printed and published and the dates of insertions of such notice in such newspaper. The expense of such printing shall be paid out of the county treasury and shall not exceed the rate fixed in the county printing contract, if any, but in no event to exceed one dollar for each description, which cost of printing at the rate paid by the county shall be taxed as part of the costs of the sale of any land or lot contained in such list."

The collector shall cause to be printed in some newspaper of general circulation and published in the county, for three consecutive weeks, one insertion weekly, before such sale, the last insertion to be at least fifteen days prior to the first Monday in November; first, a copy of such list of delinquent lands and lots, second, such list shall state in the aggregate the amount of taxes, penalty, interest and costs due thereon, each year separately stated, third, the land described therein shall be in forty-acre tracts or other legal subdivision, and the lots shall be described by number, block, addition, etc; provided, however, that if a part or parts of any forty-acre tract or other legal subdivision or lot is assessed on the tax books to two or more parties as owners thereof, then, as to such land or lots, such list shall be so prepared and separated; fourth, to such list shall be attached and in like manner so printed and published a notice that so much of said lands and lots as may be necessary to discharge the taxes, interest and charges which may be due thereon at the time of sale will be sold at public auction at the courthouse door of such county, on the first Monday in November next thereafter, commencing at ten o'clock of said day and continuing from day to day thereafter until all are offered; fifth, the county collector shall on or before the day of sale, insert at the foot of such list on his record a copy of such notice and certify on said record immediately following such notice the name of the newspaper of the county in which such notice was printed and published and the dates of insertions of such notice in such newspaper.

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The above are the only requirements as to what shall be done in regard to the publication of the list of delinquent lands in said Section 9952b.

The said certification referred to in said Section 9952 by the County Clerk was required in making the back tax book of delinquent real estate, lands and lots.

The entry of record by the county collector listing the delinquent lands and lots in said Section 9952a, became a levy on such delinquent lands and lots for the purpose of enforcing the lien of delinquent and unpaid taxes, penalty, interest and costs. The above clause in this summary proceeding constituted due process.

Thereafter, all that had to be done to enforce the tax lien was to publish the same under said Section 9952b, and in this section we find no provision for a certification by the collector except that certification provided for in Subdivision 5 supra, and such certification as therein mentioned did not require the collector to make certification before publication but rather after publication and on or before the day of sale.

We understand from your letter that you considered it to be necessary to make a certification that was to be embodied in the publication but we are unable to find any law requiring such to be done.

CONCLUSION

It is therefore the opinion of this Department that in case there was embodied in the publication the requirements of said Section 9952b as set out in the five subsections supra, the publication will be good.

Respectfully submitted,

S. V. MEDLING
Assistant Attorney General

APPROVED:

J. A. TAYLOR
(Acting) Attorney General

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