

NEWSPAPERS:

Weekly newspaper must be published regularly and consecutively, each week, for three years to qualify to publish legal notices.

May 18, 1949.

Honorable Howard B. Lang, Jr.,
Prosecuting Attorney
Boone County
Columbia, Missouri

Dear Mr. Lang:

This is in response to your recent request for an official opinion from this department, such request reading as follows:

"A newspaper has been in publication continuously and with consecutive issues for more than three years prior to April 1, 1949. Some time before April 1, 1949, the printing press and other physical properties were sold and removed from the building. However, the paper was printed thereafter by another press and was distributed as second class mail. The publication was purchased during the week of April 18, 1949. The new purchaser, after taking the first issue under the new management to the post office, was for the first time informed by the postmaster that no issues of this weekly paper had been presented to the post office between April 1, 1949 and the date presented by the new publisher. This would make a lapse of about two weeks.

"Is this newspaper one which can be recognized as a paper which can now run legal notices under the provisions of Section 14968 as amended, Laws 1943, page 859, Section 1?"

To rule on the question presented in the inquiry it is only necessary that we construe the language appearing in Section 14968, R.S. Mo. 1939, as the same has been amended and appears in its present form in Laws of Missouri 1943, page 859. The section is quoted in its entirety as follows:

"All public advertisements and orders of publication required by law to be made and all legal publications affecting the title of real estate,

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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 three years; shall have 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: 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 section: Provided further, that the duration of consecutive publication herein provided for shall not affect newspapers which have become legal publications prior to the effective date of this section. Provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the same may be reinstated within one year after actual hostilities shall have ceased, with all the benefits under the provisions of this section, upon the filing with the Secretary of State of notice of intention of said owner or publisher, his widow or legal heirs, to republish said newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as second class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict

with this section except sections 14970, 14971, 14972, Laws of Missouri, 1941, and Sections 7771, 7772, and 7773, Revised Statutes of Missouri, 1939, are hereby repealed."

The section just quoted sets forth in clear and concise language the requirements to be met by a newspaper before it is authorized to publish public advertisements and orders of publication required by law to be made. From facts set forth in the opinion request it is assumed that the newspaper in question was a weekly newspaper and met the requirements of the statute before its regular publication was interrupted a short time prior to April 1, 1949, by a sale of the printing press and other physical properties necessary for publication of the newspaper. It stands conceded that the publication of this newspaper was not made for a period in excess of two weeks. The question to be decided is whether the two week suspension in publication violates the plain language of the statute requiring that such newspaper "shall have been published regularly and consecutively for a period of three years" before it becomes eligible to carry legal publications and notices. The qualifications set forth in the statute have been lessened and dispensed with in certain instances as may be noted by alluding to the several provisos contained therein, but the facts at hand do not require that such provisos be considered.

The statute in question is plain and unambiguous and we can go no farther than to give to the words used, their plain and ordinary meaning. A weekly newspaper, under the rule laid down in the statute, must be published "regularly and consecutively" for a period of three years before it is eligible to accept legal notices. The word "regularly" means in a regular manner; in a way or method according to rule or established mode (See: Words and Phrases, Perm. Add. Vol. 36, p. 659). The word "consecutive" has been defined as "succeeding one another in regular order" (Black's Law Dictionary, Ed. 1944). Considering the accepted definitions of the words "regularly" and "consecutive" as applied to the publication of a weekly newspaper, it is evident from the facts disclosed by the inquiry made, that the strict requirements of the statute in question have not been met by a weekly newspaper which has not been published for over two weeks.

CONCLUSION.

It is the opinion of this department that a weekly newspaper

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having failed to publish issues regularly and consecutively each week for a period of three years fails to meet the general requirements laid down by Section 14968, Laws of Missouri 1943, page 860, qualifying newspapers to publish legal notices.

Respectfully submitted,

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APPROVED:

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