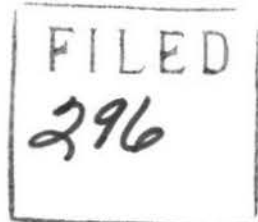


June 15, 1971

OPINION LETTER NO. 296
Answer by letter-Wieler



Honorable Robert S. Wiley
Prosecuting Attorney
Stone County Courthouse
Galena, Missouri 65656

Dear Mr. Wiley:

This is in response to your request for an opinion as to the meaning of certain language contained in Sections 50.800 and 493.050, RSMo 1969.

Section 493.050, RSMo 1969, in pertinent part, reads 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, semiweekly, or weekly newspapers 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; . . ."

Section 50.800, RSMo 1969, reads, in pertinent part, as follows:

"1. On or about the first Monday in March of each year, the county court of each county shall prepare and publish in some newspaper of general circulation published in the county, if there is one, . . . a detailed financial statement of the county . . ."

With respect to Section 493.050, you have asked whether the phrase "in the county where located" refers to the real estate mentioned within that section or to the newspaper. It is our opinion that the phrase obviously refers to the location of the real estate

Honorable Robert S. Wiley

involved. The intent of this statute was to provide those living in the area where a particular piece of real estate is located with information concerning any impending legal action affecting the title to such real estate.

Your second question deals with the term "publication" or "publish." Specifically, you have asked for our opinion as to whether certain newspapers are published in your county. Factually, you have set forth the following information respecting three newspapers circulated throughout your county:

"The Crane Chronicle and the Stone County Republican are two newspapers printed and published by the Stone County Publishing Company. The main office of both newspapers is in Crane, Stone County, Missouri, and the papers are distributed from Crane, Stone County, Missouri, by second class mail. However, the printing occurs in Cassville, Barry County, Missouri.

"The Table Rock Gazette is a newspaper published by Larimer Publications of Green Forest, Arkansas. The Gazette is distributed by second class mail from Green Forest, Arkansas and is circulated in Stone County. Printing of the Gazette is done at Green Forest, Arkansas, but the main business office of the Gazette is in Kimberling City, Stone County, Missouri."

Enclosed is a copy of Opinion No. 5, issued November 2, 1933, to Mr. E. T. Barnes, wherein it was held that it was not necessary, under similar statutes, that the mechanical printing be done in the area where publication is required. That is, in the absence of an express statutory requirement that the printing and publishing be done in a particular city or county, printing is not a required element of publication. With respect to the requirement of publication in general, we note that 73 C.J.S., Publish-Publisher, Section 82, pages 1250-1251, states a variety of interpretations given to the words "publish" and "publisher." In the context of the statutes under consideration and assuming, as you have in your question, that the newspapers are otherwise qualified, without passing upon the other qualifications of the three newspapers to which you refer, it is our opinion that the Crane Chronicle and the Stone County Republican are published in Stone County.

However, the Table Rock Gazette, under the facts stated, is not "published" in Stone County. In our view, although this newspaper has its "main business office" in Stone County, it does not

Honorable Robert S. Wiley

qualify as a newspaper of general circulation published in the county under the provisions of Section 50.800, RSMo 1969.

Yours very truly,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 5
11-2-33, Barnes