PUBLIC ADVERTISEMENTS: )

PROBATE COURT:

Publisher's Affidavit in records of Probate Court and Affidavit of Publication must not differ materially in form and must meet the requirements of Section 13775, Laws of Mo. 1937, p. 432.

December 17, 1937.

1270

FILED 35

Honorable J. D. Greer Probate Judge Mexico, Missouri

Dear Sir:

This Department is in receipt of your letter of December 15th, which is as follows:

"About two years ago I bought a
New First and Final Notice Record
to conform to the affidavit of the
publishers notices and the new
form as passed by the 1937 Legislature and used by the publishers
does not conform to my book which
is not half used up. I am enclosing a leaf of my record and a form
used by the publishers now.

"What I want to know is if it is necessary for me to get a new record to conform to the law? Is the exact wording of the affidavit and my record essential? I hate to discard a costly record which is only one third used. Compare this form and my record and tell me what to do and I will appreciate it very much, indeed."

The provisions of Section 13775, Laws of Missouri 1937, page 432, are mandatory in their terms. By comparison we find that the affidavit of publication which you enclosed meets all the requirements of the statute and, in

fact, is in a form which this Department has heretofore approved. It is necessary that the publisher's affidavit and the affidavit of publication strictly comply with the terms of said section and by a comparison of the same, which you enclosed, we find that the two material elements in which the respective forms differ are: "consecutively for more than one year prior to the first publication" and "the terms of an act of the fifty-sixth general assembly of the state of Missouri passed at its regular 1931 session and approved way 14, 1931, repealing Section 13775, Chapter There are other differences which we deem in law 114." as immaterial, but due to the fact that the two forms of affidavits differ so materially in the two instances which we present, and as the notices are always strictly construed, we deem the present form of the Publisher's affidavit to be no longer suitable for use.

Respectfully submitted,

OLLIVER W. NOLEN Assistant Attorney-General

APPROVED:

J. E. TAYLOR (Acting) Attorney-General

OWN: EG