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PROBATE JUDGE: Publication

Where a newspaper misses only one issue it is not necessary that said paper be published continuously for another year before any legal notices can be published in it under the terms of Section 13775, R. S. Mo. 1929.

September 4, 1934.



Honorable A. B. Duncan,
Judge of Probate Court,
St. Joseph, Missouri.

Dear Sir:-

We have your letter of August 23, 1934, in which is contained a request for an opinion as follows:

"If a newspaper, which has been publishing legal notices for more than twenty years, and has done so continuously, misses an issue, must that paper be published continuously for another year before any more legal notices can be published in it, in order to comply with Section 13775 Revised Statutes of 1929?"

Section 13775, Revised Statutes of Missouri, 1929, provides in part as follows:

"Sec. 13775. PUBLIC ADVERTISEMENTS AND ORDERS OF PUBLICATION TO BE PUBLISHED IN NEWSPAPER OF COUNTY.- All public advertisements and orders of publication required by law to be made shall be published in some daily, semi-weekly, tri-weekly or weekly newspaper of general circulation in the county where located and which shall have been published continuously for a period of at least one year."

It is our opinion that the mere fact of a newspaper missing one issue will not disqualify said newspaper for the publishing of legal notices. Obviously, we think, the statutory intent was to provide that legal notices should be published only in well recognized and established newspapers. The word "continuously" is used therefore in the general sense and should not be regarded in too strict a light. Merely missing one issue could not seriously affect the standing of a newspaper, nor in a general sense could the paper be said to at that time cease its continuous publication. Our courts, in the construction of statutes, have invariably sought to effectuate the legislative intent as distinguished from following the literal and limited meaning of the language or words employed.

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In the case of St. Louis vs. Christian Bros. College, 257 Mo. 541, the Supreme Court in banc stated at page 552 as follows:

"On this point we will say that, in construing laws, it is permissible in arriving at the intent of the lawmaker to either expand or limit the meaning of his words, when it becomes necessary to make the law harmonize with reason. (Kane v. Railroad, 112 Mo. 34, l.c. 39; Keeney v. McVay, 206 Mo. 42, l.c. 68)."

In the case of Kerens vs. St. Louis Union Trust Co., 223 S. W. 645, the Supreme Court in banc stated at page 651 as follows:

"A statute should always be construed so as to effectuate the purpose of its enactment. To accomplish this end, the meaning of words may, with a proper regard for the object to be attained, be restricted and at other times extended."

In the case of State vs. Schwartzmann Service, Inc., 40 S. W. (2nd) 479, the court at page 480 stated as follows:

"It is a cardinal rule, universally accepted, that, in the exposition of a statute, the intention of a lawmaker will prevail over the literal sense of the terms; its reason and intention will prevail over the strict letter."

Finally, in the case of State vs. McKay, 52 S. W. (2nd) 229, the court at page 230 quoted with approval the following language and cases listed thereunder:

" 'A statute or ordinance will not be given a construction which will make it unreasonable or which will result in an absurdity.' "

We suggest that, in our present situation, to say that the missing by a newspaper of one issue should, for the present, disqualify it under Section 13775, above quoted, is unreasonable. We do not think that the statute requires the waiting of a year by

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a newspaper after missing an issue in order to enable said newspaper to publish legal notices within the statutory terms, other qualifications being in order.

Very truly yours,

CHARLES M. HOWELL, Jr.
Assistant Attorney-General.

CMH jr-MB

APPROVED:

A handwritten signature in cursive script, reading "Lowell R. Hunt". The signature is written in dark ink and is positioned above a horizontal line.

(Acting) Attorney-General