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JEFFERSON CITY

July 11, 1974

OPINION LETTER NO. 247

Honorable William L. Mauck  
Prosecuting Attorney  
Dallas County  
Buffalo, Missouri 65622

Dear Mr. Mauck:

This letter is in response to your question asking:

"Does RSMo. 120.400 require the County Clerk to make publication concerning the conduct of a primary election, as required by RSMo. 120.390, in both of the only two newspapers in the County, when only one of the newspapers is a legal newspaper, as defined by RSMo. 493.050, or does RSMo. 120.400 require the County Clerk to publish the necessary notices in only legal newspapers, as defined by RSMo. 493.050?"

You also state that:

"The situation in Dallas County is that there are two newspapers, only one of which is a legal newspaper, as defined by the statutes. The problem the County Clerk has is whether to publish the required primary election notices in both newspapers or in only the legal newspaper."

Section 120.390, RSMo, provides:

"Each of the county clerks or boards of election commissioners shall, upon receipt

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of the list from the secretary of state publish, under the proper party designation, the title of each office and the names and addresses of all persons who have filed declaration papers therefor, giving the name and address of each, the date of the primary election, the hours during which the polls will be open and that the primary will be held at the regular polling places in each precinct. The notice shall be published once in each of the two weeks immediately preceding the election as provided by section 120.400."

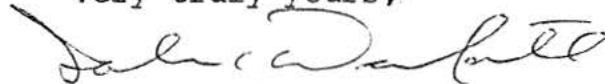
Section 120.400, RSMo, provides:

"Every publication required in connection with the conduct of a primary election shall be made in two newspapers which are published within the county, each of which represents one of the two major political parties, if there are two such newspapers, and if not, then in any two newspapers published within the county, or if there is only one newspaper published within the county then in that newspaper, or if there is no newspaper published within the county then in some newspaper having general circulation within the county."

Section 493.050, RSMo, sets out the requirements for a "legal" newspaper for the publication of public advertisements and orders of publication.

Section 120.400 does not purport to define "newspaper" and it is our view that such can only be properly defined by reference to Section 493.050. Therefore, the answer to your question is that Section 120.400 refers to only newspapers coming within the provisions of Section 493.050.

Very truly yours,



JOHN C. DANFORTH  
Attorney General