



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

September 23, 1965

Honorable Crawford C. Martin
Secretary of State
State of Texas
Austin, Texas

Opinion No. C-514

Re: Whether, under the facts
stated, the "Ganado Tribune"
is a newspaper eligible to
publish legal notices under
Article 28a, V.C.S.

Dear Mr. Martin:

You have requested the opinion of this office as to whether the "Ganado Tribune" is legally eligible to receive paid legal notice publication orders from the State of Texas under Article 28a, Vernon's Civil Statutes, which reads in pertinent part as follows:

"Art. 28a....

(a) The term 'newspaper' shall mean any newspaper devoting not less than twenty-five (25) per cent of its total column lineage to the carrying of items of general interest, published not less frequently than once each week, entered as second-class postal matter in the county where published, and having been published regularly and continuously for not less than twelve (12) months prior to the making of any publication mentioned in this Act." (Emphasis supplied)

In this connection you advise as follows:

"The Ganado Tribune is a newspaper circulated almost entirely within the community and vicinity of Ganado, Texas, in Jackson County. It maintains an office and regularly employed staff of reporters and advertising personnel in the city of Ganado. In addition to general news coverage, it features news of a purely local nature, of interest solely to Ganado residents. Its advertising space is purchased almost entirely by Ganado businesses.

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"In all respects, this newspaper is regarded as a local newspaper by the residents of Ganado. It is the only newspaper published especially for the people of that community.

"The Ganado Tribune is printed at the Malec Publishing Company's plant at Yoakum in Lavaca County, where individual copies are addressed for mailing to subscribers at Ganado. It is entered as second-class postal matter at Yoakum, where the newspaper is mailed in bulk bundles to the post office at Ganado, in Jackson County. The post office at Ganado opens the bulk bundles and routes the individual copies to subscribers as already addressed."

You ask whether the fact that the newspaper in question is printed in Yoakum, Lavaca County, and entered as second-class matter in that county, operates to forbid granting publication contracts to that newspaper in Ganado, Jackson County. The case of Christy vs. Williams, 292 S.W.2d 348 (Tex.Civ.App., 1956, error dismissed w.o.j. in 156 Tex. 555, 298 S.W.2d 565), dealt with virtually the exact question that is before us now. Therein, the Court held that there must be a substantial compliance with the law in holding special elections, as distinguished from a literal or absolute compliance. The Court went further and stated that that portion of Section 2 of Article 28a, Vernon's Civil Statutes, which provides for publication in a newspaper which is entered as second-class postal matter in the county where published is at best directory, and not mandatory.

Further, although the Ganado Tribune is printed in Lavaca County, and entered as second-class matter there, the fact that the business and editorial offices are located in Ganado, and the paper is principally circulated in the Ganado area, constitute sufficient evidence to conclude that the paper is published in Ganado, Jackson County. See Attorney General's Opinion No. 2993-C (1937) and citations contained therein.

In view of the facts outlined in your request, and the case cited above, it is the opinion of this office that the "Ganado Tribune" is legally eligible to receive paid legal notice publication orders from the State of Texas, where other specific

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statutory requirements are met.

S U M M A R Y

The provision of Section 2 of Article 28a, V.C.S., requiring that a newspaper be entered as second-class matter in the county where published, is directory only. A newspaper that is printed by contract in one county and mailed for publication in another county is, under the facts of this opinion, legally eligible to receive paid legal notice publication orders from the State of Texas.

Very truly yours,

WAGGONER CARR
Attorney General

By: 
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Assistant

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