

NEWSPAPERS: Section 14966, Senate Bill No. 123, 65th
General Assembly, has not fixed maximum to
PUBLICATIONS: be charged by newspapers for legal publi-
cations in civil cases nor does any other
statute set maximum, outside cities having
100,000 population or more.

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Filed No. 40



Honorable Roger Hibbard
Prosecuting Attorney
Marion County
Hannibal, Missouri

Dear Sir:

This is in answer to your letter of recent date requesting an official opinion of this department, reading as follows:

"It has been the custom and practice in the Tenth Judicial Circuit of Missouri, for the various newspapers publishing legal notices in civil matters to govern their charges to comply with the provisions of Section 14966, Revised Statutes of Missouri for 1939.

"This section was revised and a new section enacted bearing the same number by the Legislature and will appear in the laws of 1949.

"It was passed as Senate Bill No. 123. The amendment provides for an increase in the rate.

"The question has arisen in this circuit as to whether or not this section, as amended, covers the rates to be charged by newspapers for publications in civil matters such as an order of publication in a civil suit, a notice of sheriff's sale of real estate in partition or under execution, or notices required to be published by the Probate Court in Probate proceedings and other related and similar publications where the cost is

not to be borne by the state or a county.

"If, in your opinion, this section herein-above set out, does not control the rates which may be charged for the types of publications mentioned, is there any statute or section of the laws which does cover the same or may each newspaper charge whatever rate they deem fair and reasonable."

Section 14966, Senate Bill No. 123, 65th General Assembly, provides as follows:

"When any law, proclamation, advertisement, nominations to office, proposed constitutional amendments or other questions to be submitted to the people, order or notice shall be published in any newspaper for the state, or for any public officer on account of or in the name of the state, or for any county, or for any public officer on account of, or in the name of any county, there shall not be charged by or allowed to any such newspaper for such publications a higher rate than ten cents per line for each insertion, the lines to be two inches long and to be set in type occupying twelve lines to the column inch, fractional lines to be charged and paid for as one line: Provided, however, that where any law authorizing and requiring the publication of any such law, proclamation, advertisement, nominations to office, proposed constitutional amendments or other questions to be submitted to the people, order or notice, shall require the use of a type having a body larger than six point, or more than one size of type, or the use of any emblem, or the spacing of lines so as to have a blank space between the lines, said printing shall be paid for by the inch of space used, single column of 12 ems pica wide, which price per inch shall not exceed the rate of one dollar per inch, single column of 12 ems pica wide, for

each insertion. When any law proclamation, advertisement, nominations to office, proposed constitutional amendments, or other questions to be submitted to the people, order or notice, shall be required by law to be published in any newspaper, the rates herein specified shall prevail, and all laws or parts of laws in conflict herewith, except sections 14970 and 14972, Revised Statutes 1939, and Section 14971, laws of 1945, pages 1318 and 1319, approved July 3, 1946, are hereby repealed. Reenacted, Laws 1949, p. ___, S.B.No. 123, Sec. 1." (Emphasis ours.)

Obviously Section 14966, supra, limits the maximum amount that may be charged by a newspaper for publications only when such publications are for the state or the county or for a public officer on account of or in the name of the state or county. The publications required in civil suits between private litigants are not such publications as come within the provisions of Section 14966.

Section 14970, Revised Statutes of Missouri, 1939, provides as follows:

"In all cities of this State which now have, or shall hereafter have, a population of one hundred thousand inhabitants or more, all public notices and advertisements, directed by any court or required by law to be published in a newspaper, shall be published in some daily newspaper of such city, of general circulation therein, which shall have been established and continuously published as such for a period of at least three consecutive years next prior to the publication of any such notice. R.S.1929, Sec. 13777; as amended Laws 1941, p. 519, Sec. 1."

Section 14971, Laws of Missouri, 1945, page 1317, provides as follows:

"In all such cities a board consisting of the judges of the circuit court of such city or of the judicial circuit in which

said city is situated, or a majority of them shall on or before the first day of January, 1942, and every two years thereafter, cause to be published in some daily newspaper of said city a notice for at least twenty days announcing and designating the time and place when and where said board shall hold a hearing to determine what newspapers in such cities are qualified to publish public notices and advertisements under the provisions of the preceding section; and all newspapers in said cities desiring to publish such public notices and advertisements shall, on or prior to the date of each such hearing, file with the board a petition verified by the affidavit of one of the publishers thereof, that such newspaper has the qualifications set forth in the previous section and desires to be designated as a qualified newspaper under the provisions of the preceding section, and a majority of the board at such time and place shall determine what newspapers so petitioning are qualified under the provisions of the preceding section and shall make a record thereof and shall file a copy thereof with the clerk of all courts of record within such cities, and thereupon such newspapers shall be deemed and considered by all courts and officers of this state to be qualified under the provisions of the preceding section; Provided, however, that there shall not be charged by or allowed to any such newspaper for such publications a higher rate than fifteen cents per line for each insertion, the lines to be two inches long and to be set in type occupying twelve lines to the column inch, fractional lines to be charged and paid for as one line; Provided, however, that said petition shall be accompanied by a good and sufficient bond, in a sum to be fixed by said board, conditioned for the correct and faithful publication in said newspaper of all said public notices and advertisements, in manner and form as required by law, and at rates not in excess of

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the rate fixed herein; Provided, further, that the board of judges of any such city, if the board shall deem it in the public interest, shall, in the manner hereinbefore prescribed, qualify any daily newspaper of general circulation for the publication of public notices and advertisements at rates higher than the maximum rates herein established, though such newspaper shall not file bond hereunder."

It is to be noted that Section 14970 and Section 14971, supra, are not limited to publications by or for the county or state as was the case in Section 14966, but apply to all publications directed by any court or required by law to be published in a newspaper.

We are unable to find any other statute than Section 14970 and Section 14971, supra, setting a maximum charge by newspapers for publications in civil cases between private litigants.

Conclusion

It is the opinion of this department that Section 14966, Senate Bill No. 123, of the 65th General Assembly, is not applicable to publications in newspapers in civil cases between private litigants.

It is further the opinion of this department that except in cities of 100,000 and over there is no maximum set for charges by newspapers for legal publications required in civil cases between private litigants.

Respectfully submitted,

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Assistant Attorney General

Approved:

J. E. TAYLOR
Attorney General