

NEWSPAPER:

Entitled to be reinstated under Section 14968, page 859, Laws of Missouri, 1943, by the fulfillment of the requirement of the statute. Publisher defined.

January 4, 1946

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Honorable Wilson Bell
Secretary of State
Jefferson City, Missouri

Dear Sir:

Receipt of your recent request for an opinion addressed to the Honorable W. O. Jackson has been directed to me for my attention. Your request reads as follows:

"Enclosed is the letter about which Mrs. Parish called you today. You will note that Mr. Petroquin wants to know about the legal status of his newspaper, publication of which was suspended when he enlisted in the Navy.

"I will appreciate your opinion on this question."

The letter addressed to you by Mr. Alvin F. Petroquin, and referred to in your request, reads as follows:

"After a suspension of three years I am again publishing the FAIR PLAY at Ste. Genevieve, Missouri.

"I have purchased the entire printing plant of Mr. LeClere Janis and will publish as well as edit the paper.

"At the time I enlisted in the Navy I was editing the paper under a lease from Mr. Janis, but due to my enlistment the paper had to suspend publication. Under House Bill 292, a newspaper can receive its legal publication rights immediately upon reissue provided the paper was suspended because of the

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war effort. I sincerely hope that this will hold true as I need the legal publication privileges, as you, a former newspaperman well know.

"After 35 months in service, 18 of which were spent overseas on a Destroyer Escort, I received my Honorable Discharge September 15, 1945.

"My paper will be Democratic in policy and will sell for \$1.00 a year for a time. I am sending you a copy of the first issue published this week.

"Please let me know as soon as possible about my legal status."

The principal question involved and around which our opinion develops concerns whether Mr. Petrequin does or does not qualify as an owner or publisher of the newspaper in question under Section 14968 (referred to by Mr. Petrequin as House Bill 292), page 859, Laws of Missouri, 1943, which section reads as follows:

"All public advertisements and orders of publication required by law to be made and all legal publications affecting the title to real estate, shall be published in some daily, tri-weekly, semi-weekly or weekly newspaper of general circulation in the county where located and which shall have been admitted to the post office as second class matter in the city of publication; shall have been published regularly and consecutively for a period of three years; shall have a list of bona fide subscribers voluntarily engaged as such, who have paid or agreed to pay a stated price for a subscription for a definite period of time: Provided, that when a public notice, required by law, to be published once a week for a given number of weeks, shall be published in a daily, tri-weekly, semi-weekly or weekly newspaper, the notice shall appear once a week, on the same day of

each week, and further provided, that every affidavit to proof of publication shall state that the newspaper in which such notice was published has complied with the provisions of this section: Provided further, that the duration of consecutive publication herein provided for shall not affect newspapers which have become legal publications prior to the effective date of this section. Provided, however, that when any newspaper shall be forced to suspend publication in any time of war, due to the owner or publisher being inducted into the armed forces of the United States, the same may be reinstated within one year after actual hostilities shall have ceased, with all the benefits under the provisions of this section, upon the filing with the Secretary of State of notice of intention of said owner or publisher, his widow or legal heirs, to republish said newspaper, setting forth the name of the publication, its volume and number, its frequency of publication, and its readmission to the post office where it was previously entered as second class mail matter, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay a stated price for subscription for a definite period of time. All laws or parts of laws in conflict with this section except sections 14970, 14971, 14972, Laws of Missouri, 1941, and Sections 7771, 7772, and 7773, Revised Statutes of Missouri, 1939, are hereby repealed." (Underscoring ours.)

We are informed that at the time the publication of the newspaper "Fair Play" was suspended, Mr. Petrequin was not the owner but rather that he was the lessee of the owner, Mr. LeClere Janis. However, under this situation, we assume the total responsibility of issuing the newspaper and circulating it for sale rested on Mr. Petrequin, so that he would qualify as the publisher of the newspaper.

Webster's New International Unabridged Dictionary, 2nd Edition, defines publisher as,

"One who publishes; esp. one who issues, or causes to be issued, from the press, and offers for sale or circulation, matter printed, engraved, or the like; a person or corporation whose business is the publishing of books, periodicals, music, maps, and the like."

Bouvier's Law Dictionary defines publisher as,

"One who, by himself or his agent, makes a thing publicly known; one engaged in the circulation of books, pamphlets, or other papers,"

which definition is cited with approval in the case of LeRoy v. Jamison, 15 Fed. Cases 373, l. c. 376.

Black's Law Dictionary defines a publisher the same as Bouvier and adds further, "one who publishes, especially one who issues, or causes to be issued, from the press, and offers for sale or circulation, matter printed, engraved, or the like," which is cited with approval in the case of Brokaw v. Cottrell, 114 Neb. 858, 211 N. W. 184, l. c. 187.

It is our notion that Mr. Petrequin is one who issued, or caused to be issued, the newspaper "Fair Play" and offered the same for sale or circulation, and that he thereby qualifies under the definitions herein presented as the publisher of the said newspaper.

Mr. Petrequin states that the newspaper suspended publication three years ago which would place the time of suspension during the year 1942 or during the time of war as required by the statute. He further states that as a result of his induction into the armed forces the newspaper was forced to suspend publication, which further satisfies the requirements of the statute. He is, with the present writing, filing with your office notice of intention to republish the said newspaper. Mr. Petrequin has yet to advise you of the volume and number of the publication, the newspaper's readmission to the post office, and when it shall have a list of bona fide subscribers voluntarily engaged as such who have paid or agreed to pay the stated price for subscription for a definite period of time. Otherwise the requirements of Section 1496B, page 859, Laws of Missouri, 1943, supra, have been satisfied.

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Conclusion

It is, therefore, the opinion of this department that the newspaper "Fair Play" was forced to suspend publication due to the publisher being inducted into the armed forces of the United States during the war and that said newspaper is therefore entitled to be reinstated at this time with all the benefits under Section 14968, page 859, Laws of Missouri, 1943, upon receipt of information aforementioned, if such newspaper was previously qualified.

Respectfully submitted,

J. MARTIN ANDERSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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