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PUBLICATION OF ADVERTISEMENTS, NOTICES AND PROCLAMATIONS—SECTION 6251-1 G. C. PRESCRIBE RATES OF COMPENSATION FOR REQUIRED PUBLICATIONS BY COURTS OF RECORD OTHER THAN PROBATE COURT—SUCH SECTION DOES NOT HAVE APPLICATION TO PUBLICATIONS OF COUNTY, TOWNSHIP, SCHOOL DISTRICT OR OTHER OFFICIALS NOT OFFICERS OR EMPLOYES OF A COURT OF RECORD OTHER THAN PROBATE COURT.

SYLLABUS:

The rates of compensation for the publication of advertisements, notices and proclamations prescribed by Section 6251-1, General Code, are by that section specifically limited to those advertisements, notices and proclamations required to be published by courts of record, other than the probate court. Such section does not prescribe the rates of compensation for the publication of advertisements, notices and proclamations of county, township, school district or other officials who are not officers or employes of a court of record, other than the probate court.

Columbus, Ohio, April 14, 1944

Hon Charles Varner, Prosecuting Attorney
Ottawa, Ohio

Dear Sir:

Your request for my opinion reads:

"Section 6251-1 G. C. effective September 16, 1943, provides certain rates which publishers may charge and receive for the publication of advertisements, notices and proclamations required to be published by all *courts of record* of this state, except probate courts.

I am in doubt as to the extent of the application of these rates and wish to inquire whether they apply to all legal notices and advertising required in all cases in the Common Pleas Court, both civil and criminal, including notices required in Common Pleas Court in proceedings to forfeit lands omitted from the foreclosure list, and to what extent, if any, do the new rates apply to notices and advertising required to be published by other county, township and school board offices such as County Auditor, County Treasurer, County Engineer, County School Board, District School Boards and township officers."

Section 6251-1, General Code, to which you refer, provides:

"Publishers of newspapers may charge and receive for the publication of advertisements, notices and proclamations required to be published by all courts of record of this state, except probate courts, the following sums, to wit: For the first insertion, one dollar and fifty cents for each square; and for each additional insertion authorized by law, seventy-five cents for each square. Fractional squares shall be estimated at a like rate for space occupied. In advertisements containing tabular or rule work fifty per cent may be charged in addition to the foregoing rates. Providing, however, newspapers having a cir-

culuation of over twenty-five thousand shall charge and receive for such advertisements, notices and proclamations, rates charged on annual contracts by them for like amount of space to other advertisers who advertise in its general display advertising columns; and the publisher shall make and file with his bill before its payment, an affidavit, that the newspaper had a bona fide circulation of more than twenty-five thousand at the time the advertisement, notice or proclamation was published, and that the price charged in the bill for same did not exceed the rates herein provided for such advertisement, notice or proclamation."

This section was enacted by Amended Substitute Senate Bill No. 134 of the Ninety-fifth General Assembly which was entitled "An Act To amend section 1697 and to supplement section 6251 of the General Code by enactment of supplemental section 6251-1, relating to rates for legal advertising and fees for publication."

Section 6251-1, General Code, purports to include within its terms only advertisements, notices or proclamations required to be published by courts of record, other than probate courts. Section 6251, General Code, which it was enacted to supplement, provides the charges which may be made for publication of advertisements, notices and proclamations generally.

The only one of the publications enumerated in your letter which the common pleas court or any of its officers or employes is required to make is that provided in Section 5718-1b, General Code, which provides in part:

"Upon the filing of such application the court shall fix a day for the hearing of objections to the action of the board of revision in making such list of omitted lands and shall order the clerk of the court to cause notice of the time and place of hearing, together with a list of such omitted lands, to be published once a week for two consecutive weeks in two newspapers as provided in section 5704 of the General Code. * * *"

The court is also required to publish the times at which the terms of court shall commence, and the sheriff or master commissioner is required to advertise sales made pursuant to writs of execution or orders of sale. Such officers, when so acting, are officers of the court, and Section 6251-1, General Code, would, in my opinion, apply to such notices. The same is true with respect to notices of sales made by re-

ceivers appointed by the court. Another instance where Section 6251-1, General Code, would apply is the notice which the jury commissioners are required to give. In other words, any publication which the officers of a court of record, other than the probate court, are required to make is governed by Section 6251-1, General Code.

The recently enacted section, however, does not apply to notices required to be published by officers or boards who are not connected with the court, and such publications are governed by the provisions of Section 6251, General Code.

It is only necessary to add that the duty to cause a notice to be published in order to procure constructive service is upon the party seeking to procure such service and not upon the court or any of its officers.

You are therefore advised that the rates of compensation for the publication of advertisements, notices and proclamations prescribed by Section 6251-1, General Code, are by that section specifically limited to those advertisements, notices and proclamations required to be published by courts of record, other than the probate court. Such section does not prescribe the rates of compensation for the publication of advertisements, notices and proclamations of county, township, school district or other officials who are not officers or employees of a court of record, other than the probate court.

Respectfully,

THOMAS J. HERBERT

Attorney General