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Official Publication of the Kentucky Press Service - Volume 60, Number 3 - March, 1989

Courts rule on public notice, 'local newspaper' questions

Two Kentucky circuit courts have ruled recently on questions concerning the state's Public Notice statute, and definition of "local newspaper" in notification by government agencies about special meetings.

In Whitley Circuit Court, Judge Lewis B. Hopper ruled that public notices are to be published in newspapers in a county with the "largest bona fide paid circulation" and that the circulation does not need to be limited only to that within the county.

Judge Hopper said the court was "of the opinion that the resolution of the issue at hand involves its interpretation of KRS 424.120 (1) (d) to determine which newspaper in Whitley County -- the Corbin Times Tribune or the Whitley Republican -- would be the one required to publish public notices for the county."

The Whitley Republican contended that the court should interpret "largest bona fide paid circulation" to mean in-county circulation only. Judge Hopper noted that the statute does not permit the court to determine that definition. As noted in his opinion, KRS 424.120 "does not limit the determination of the qualified newspaper to the largest in-county circulation but, rather to the largest bona fide paid circulation as shown by the published statement of ownership filed on October 1 of each year for the publication area."

"Upon an entire examination of KRS 424.120, it is obvious that the legislature has

placed primary reliance upon the published statement of ownership to determine the qualifications of a newspaper and to determine which newspaper has the largest bona fide circulation."

Based on the legislature's reliance for proper compliance, Judge Hopper said he was of the opinion that KRS 424.120 requires that the newspaper with the "largest bona fide paid circulation" as shown on the annual Statement of Ownership without limiting the circulation to an in-county basis should be that newspaper qualified to carry advertisements required by law to be published."

Whitley Republican publisher Don Estep said the newspaper would appeal the decision by Judge Hopper. The idea of an appeal was echoed by Whitley Republican legal counsel Cecilia T. Allen of Hirn, Reed, Harper and Eisenger of Louisville, who said, "We're going to take this out of the political arena and in to the court of appeals."

In another newspaper-related court case, the Mason Circuit Court has ruled that the Kentucky Post is not a local newspaper for Mason County and thus government agencies in the county are not required to notify The Post of any special meetings.

In his decision, Judge Richard L. Hinton said, "The Open Meetings Law contemplates notice of special meetings to Kentucky based

(Continued on Page 8)

KPA Ad, Circulation divisions plan group seminar April 27-28

The Kentucky Press Association Advertising and Circulation Divisions will hold a combined spring seminar, April 27-28 at the Galt House East in Louisville.

Information about the seminar is being mailed from KPA.

Ad Division chairman Larry Brooks and Circulation chairman Ralph Henshaw said the two divisions decided to try a group seminar since both frequently have similar type programs.

"Many of those who attend our spring and fall seminars for the Ad Division also attend the summer Circulation Division meeting," said Brooks. "So to enhance attendance and participation, as well as try to hold down the costs, the divisions decided to give the group seminar a chance."

The Circulation Division individual agenda includes a session on single copy sales conducted by Robert Sutherland, single copy sales manager of the Courier Journal; and using the mail to sell subscriptions.

The Advertising Division has individual sessions planned on selling against the Yellow Pages, with Peter Schenk, regional sales manager of American Consulting Services in Vancouver, Wash.; and audio and slide presentation on copy and layout ideas; an exchange of media packages and rate cards with a sharing of ideas; and a staff training video, "Running the Course."

On Thursday afternoon, the two divisions will meet as one with a return of last year's popular program on Team Building, with Joe Calloway, of Calloway and Associates in Nashville; and a session on "Dress for Success."

The program begins with registration at 9:30 a.m. on April 27 and continues through lunch and the presentation of the 1988 KPA Advertising Division awards on April 28.

The seminar ends at 1:30 p.m. on April 28. Brochures and registration information for the seminar and rooms are being mailed from KPA.



THE KENTUCKY PRESS

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Oldest, active journalist
**Moran dies
 at age 100**

J.S. Moran, considered by many as the oldest, active journalist in the country, died February 13 in a Louisville nursing home after a brief illness.

He was 100.

Moran, editor emeritus of the Springfield Sun, broke his pelvis last November and later contacted pneumonia. He was still writing a weekly column for the Sun at his death.

Sun general manager George Gabehart said someone from the newspaper would pick up Moran every morning at 10, bring him to the office, where he would work for an hour or so then walk around town.

"He would return in the afternoon, work on his column and by 3 p.m., would don his hat and coat and be ready to go home."

Moran, a native of Washington County, started a weekly column where he was 10 under the pen name "Uno."

In 1916, he and H.L. Smith Sr. bought the Washington County News Leader and later merged with The Sun.

Moran and Smith operated the newspaper together until 1947 when Moran took over sole ownership.

His grandson, James L. Edelen, became his partner in 1963 and 10 years later, the paper came under ownership of Landmark Community Newspapers.

Moran was inducted into the Kentucky Journalism Hall of Fame in 1985 and received numerous other awards.

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George Gill to receive SPJ's fourth First Prize

George N. Gill, president and publisher of The Courier-Journal, has been named the recipient of the Louisville Chapter of the Society of Professional Journalists' First Prize for fostering freedom under the First Amendment.

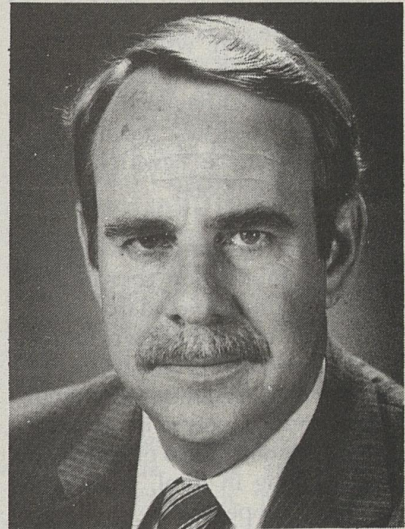
Gill, who has been publisher since 1986, was chosen because of "his commitment to aggressively challenge attempts to circumvent the public's rights as guaranteed by the First Amendment to the U.S. Constitution and Kentucky's open records and open meeting statutes," said Rachael Kamuf, president of the SPJ Louisville chapter. "These efforts have not always directly benefitted The Courier-Journal.

"Under Gill, the newspaper has offered its resources to assist other newspapers, broadcasters and press groups involved in similar efforts."

Gill will be the guest of honor at a toast/roast and presented with the First Prize on Wednesday, April 19 at a banquet at the Galt House in Louisville. The event, beginning with a cocktail hour at 6:30 p.m., is open to the public.

Tickets are \$25 for SPJ members and their guests and \$40 for non-members. Reservations may be made through April 12 by contacting Rose Blevins at Jack Guthrie and Associates, (502) 584-0371. No tickets will be sold at the door.

Gill, 54, is only the fourth person to receive the First



George N. Gill

Prize. Others chosen include his predecessors at The Courier-Journal, the late Barry Bingham Sr., and Barry Bingham Jr., and former Kentucky Supreme Court Justice John Palmore for his support in opening courtrooms to still and television cameras.

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Across Kentucky...

Bill Hendrick, Henderson County agricultural extension agent and staff writer for *The Gleaner*, has retired after nearly 35 years. Hendrick has anchored *The Gleaner's* Saturday farm page with his column of news related to the local farm scene.

Cheryl Lee has been promoted to editorial production coordinator for *The Kentucky Standard*. Lee is a 21-year old Bardstown native and a graduate of Nelson County High School. While in high school she was very involved in Distributive Education Clubs of America, participating in local, state, and national competitions.

Al Cross has recently been named political writer for *The Courier-Journal*. He has worked for the newspaper for 10 years. Cross succeeds **Bob Johnson**, who requested a change of assignment after nine years as political writer. Cross joined the newspaper's Somerset bureau in May 1978 and later worked in the Bardstown bureau and for the city desk. He has worked in the Frankfort bureau for the past two years. Before joining *The C-J* Cross worked for papers in Leitchfield, Russellville, and Monticello. Cross is a graduate of Western Kentucky University with a degree in journalism. He is also a regional director of the Society of Professional Journalists.

Elesha Richardson and **Delores Chandler** have been promoted at *The Jackson Times* and *The Beattyville Enterprise*. **Richardson** has been named production manager. In her new position she acts as a liaison between the typesetting and composition departments to get out the two newspapers. She has worked for the



Elesha Richardson



Delores Chandler

Times and *Enterprise* since graduating from high school in 1977. **Chandler** has been named news editor of *The Jackson Times* and *The Enterprise*. She started at the newspaper in 1976 right out of Transylvania University, left in 1980 and then returned in 1986.

Mac Kilduff, editor of the *Beattyville Enterprise*, has resigned after seven and a half years at the helm. **Lois Kilburn**, who has been with the *Enterprise* for several years will be in charge of the *Beattyville* weekly, according to publisher **Louise Hatmaker**. **Kilduff** and his wife **Rosemary**, who also worked for the *Enterprise*, won numerous KPA awards during their time in *Beattyville*. **Rosemary** is responsible for starting the annual woolly worm survey while **Mac** is perhaps best known as the man who announced President

Kennedy's death to the world. **Kilduff** was serving as assistant press secretary to **Kennedy** at the time of the assassination.

Charles Haskell, who has been with the *Mt. Sterling Advocate* for the past 20 years has announced his retirement as publisher and editor of the *Montgomery County* weekly. **Haskell** has also served as *Mt. Sterling* mayor, city councilman, mayor pro tem during his time with the *Mt. Sterling Advocate*. **Doug Taylor**, who has served as general manager since January, 1987, has been named publisher.

Susan G. Rumbley, a native of Bardstown, has joined the *Shelbyville Sentinel News* staff as writer/photographer.

Lori Taylor, advertising manager of the *Owenton News Herald*, has been appointed editor by publisher **J. Ed Ashcraft**. **Taylor** succeeds **Lee Cochran**, who had been with the *Owen County* weekly since 1976.

Earl K. Cox, retired sports columnist and executive sports editor of the *Courier-Journal*, is trying a career at politics. **Cox** filed candidacy papers recently for the Democratic nomination for *Jefferson County* commissioner in *A District*.

Tina Collins Terry has joined the staff of the *Montgomery Times* and *Central Kentucky Times* as an advertising representative.

Byron Brewer, editor of the *Georgetown Graphic*, has been included among the Outstanding Young Men of America for 1988.

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Across Kentucky...

(Continued from Page 4)

Jeff Fannin has been promoted to general manager of Park Newspapers, Inc. In his new position Fannin is responsible for the day-to-day operations of the Morehead based-group. He began his career with The Morehead News as a pressman in 1978. In 1982 he became plant manager of Kentucky Publishing Company and in 1984 was named vice president of KPC. When Park purchased KPC in 1987, Fannin was named plant manager, a position he held until his promotion to general manager.

Sandra Osborne, news and features editor for The Paintsville Herald, has been named managing editor for The Big Sandy News by Sandy Valley Press, publishers of both weekly newspapers. Osborne is a 1984 graduate of the University of Kentucky and in 1987 she earned her masters degree in communications. She joined the staff of The Paintsville Herald in September 1987. Osborne is a volunteer tutor in Johnson County's Adult Literacy program and earned a Kentucky Press Association Community Service Award last June for a series of articles concerning adult literacy.

James R. Schmelzer became the owner/publisher of the Newsweek and Shively Commercial Printing, under the new corporate name of Jeff-Web Incorporated, on December 29, 1988. He announced that there would be no staff or policy changes and that former owner Jack Stumler will remain as a consultant indefinitely to assist in the transition.

Tanya McGuire, a typesetter for

the Mt. Sterling Advocate, has been promoted to the position of reporter. McGuire has worked at the Advocate since May 1988. She attended Morehead State University and Lexington Technical Institute.

Ben VanHook, photographer for The Courier-Journal, has won an Eclipse Award for his photograph of Alysheba in November's Breeder's Cup. VanHook has been a C-J photographer for 4 1/2 years. He won the award for his picture of Alysheba crossing the finish line in near-darkness to win the \$3 million Breeder's Cup.

Pamela K. Henry has been named advertising manager for The Big Sandy News. Henry earned an associate degree in 1985 from Southern West Virginia Community College. She comes to the News staff from The Martin Countian, where she served as an advertising account executive.

Ruth Ann Combs and **Rebecca Barnhart**, editor and news editor respectively of the Bourbon Times, left the Paris weekly in mid-February to join the staff of U.S. Congressman Carroll Hubbard in Washington. **George Lewis** has been named editor of the Bourbon Times by publisher **Lalie Dick**.

George A. Joplin III, publisher emeritus of The Commonwealth Journal, has received the 1988 Distinguished Community Service Award from the Somerset-Pulaski County Chamber of Commerce. Joplin has been very active in community service. He has served two terms as president of

the Pulaski County Industrial Foundation, was an organizer and one of the first directors of both the Pulaski YMCA and the Downtown Somerset Development Corporation, he held the presidency of the Rotary Club and served as a director in both the United Way of Southcentral Kentucky and the chamber. Joplin has served as president of the National Newspaper Association and the Kentucky Press Association.

Willie Sawyers, former editor of Corbin! This Week and The Whitley Republican, has been named general manager of WYGO AM/FM in Corbin. Sawyers served as general manager of the Williamsburg newspaper from 1984-1988. He was also staff writer for the Times-Tribune from 1980 to 1984. Sawyers is a graduate of Eastern Kentucky University.

Robert C. Carter, publisher of the Kentucky New Era, has recently been elected to his second term to the board of directors of Leadership Kentucky. The mission of the Leadership Kentucky program is to identify a broad variety of Kentucky citizens who have demonstrated interest and skills in significant leadership roles, to inform them through programs that broaden and deepen their knowledge of Kentucky's challenges and opportunities, and to inspire them to devote their future leadership activities to issues of direct impact on the future of the commonwealth.

Patti McGinnis has joined the staff of the Wayne County Outlook as an intern from Somerset Community College.

Ashland Daily Independent wants tax decision changed

By Jim Malone
Ashland Daily Independent

Ashland Publishing Co., publisher of the Ashland Daily Independent, has filed an administrative appeal against the Kentucky Revenue Cabinet seeking to overturn a decision that says the newspaper's computer system and type fonts are subject to sales and use taxes.

The action, filed February 7, with the Kentucky Board of Tax Appeals, is Ashland Publishing's protest of an Oct. 20, 1987, ruling by the cabinet that levied sales and use taxes of \$18,552 plus interest, on the equipment.

It includes 23 video-display terminals, the mainframe computer, type fonts, terminals used for composing advertisements, and related connecting cables, printers, cabinets, software and telephone modems.

Ashland Publishing purchased the equipment in question during a three-year-long cabinet audit period from Jan. 1, 1984, to Dec. 31, 1986.

The company paid \$2463 not in dispute when the original protest was filed Nov. 12, 1987. With a subsequent payment made recently, the disputed tax bill amounts to \$12,300.15, not including penalty or interest, cabinet spokesman Scott Akers said.

State officials formally rejected the newspaper's final argument Jan. 11.

At issue is an interpretation of state statutes governing taxation of manufacturing equipment.

The company claims the computer system and type fonts represent new and expanded industry statutorily exempt from state sales and use taxes because it is an integral part of the newspaper production process.

The cabinet contends that the equipment doesn't qualify for the exemption from sales and use taxes because it replaced existing equipment and is not directly a part of the manufacturing process.

"There is a fair amount of case law on this because it's an area where the statute is not

crystal clear," Akers aid. "Because of the different types of industry and manufacturing processes, it's impossible to have a hard and fast rule."

Cabinet appraisers cite a state Supreme Court decision saying the integrated manufacturing process for newspapers starts when news stories and/or advertisements are sent to typesetting machines.

"We remain adamantly convinced that the equipment in question is inherently and directly a part of the manufacturing process," said John Del Santo, publisher of The Independent and a member of the KPA Board of Directors.

Ashland Publishing attorney Pam Lester, of Lexington-based Stoll, Keenon and Park, says in the suit, "It is readily apparent that the (newspaper) cannot produce its ultimate product with the computer system, since the computer system is the only means by which stories are written, edited and relayed to the typesetter. Without the computer system, production of the newspaper would be impossible."

The company says that because the computer is an integral part of the process of manufacturing a newspaper, it should be exempted under a precedent set in a 1986 court case.

Ashland Publishing is seeking recovery of its costs and legal fees, a declaration that the state's assessment is in error and any other relief it may be entitled to.

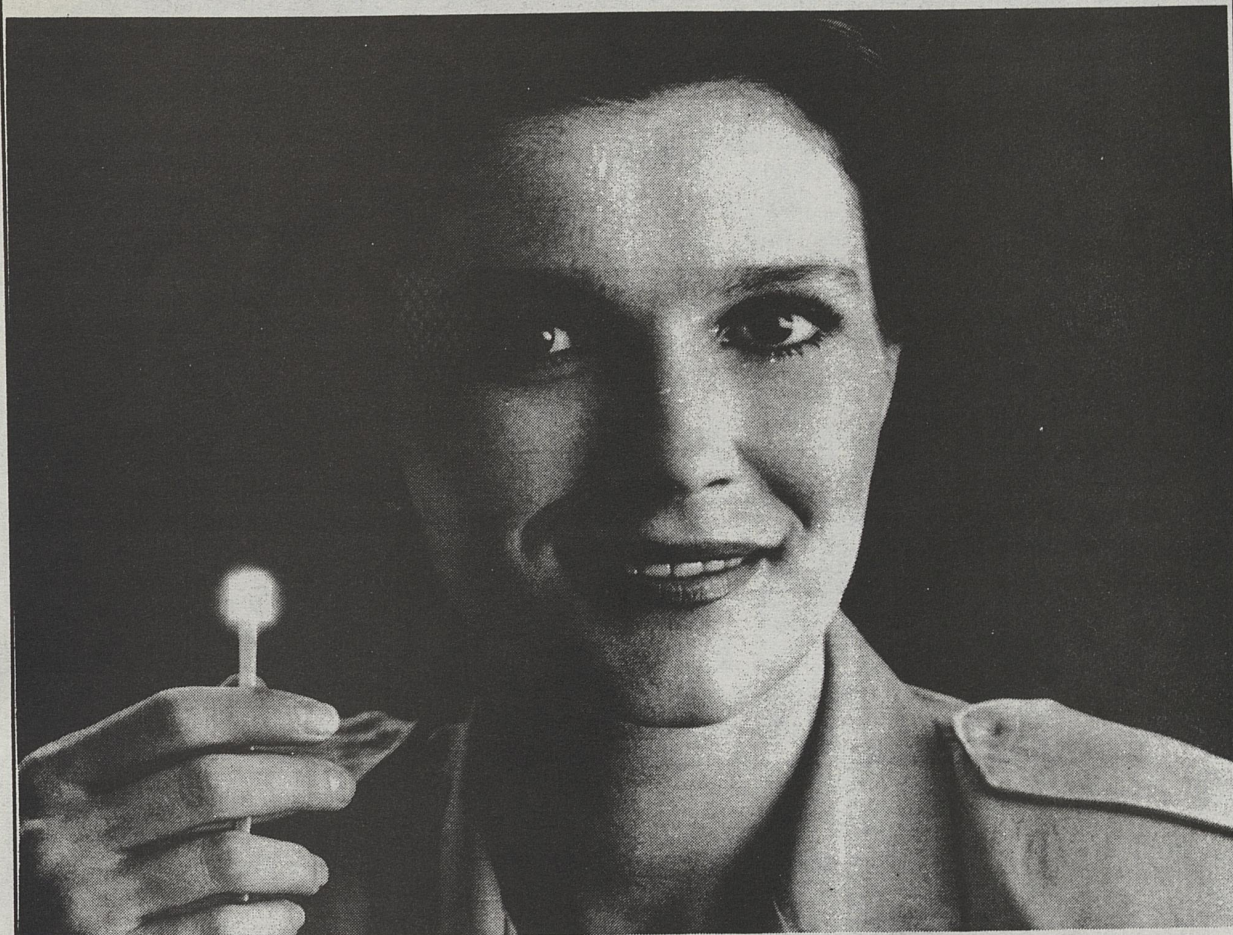
Akers declined to comment specifically on the case because it is pending litigation.

The appeals board is a quasi-judicial body with three referees -- two of them are lawyers and one is a businessman -- that hear arguments and accept briefs, similar to a court of law.

Disputes can be resolved by the board. But each party also has the option of appealing the record to either Franklin Circuit Court or the circuit court in the home county.

Circuit courts act as appellate courts in tax appeal cases and do not hear new evidence.

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Courts rule on 2 newspaper questions

(Continued from Page 1)

news media which do not just randomly penetrate the territorial jurisdiction of the public agency involved, but which with regularity and in detail treat substantially all the news and governmental affairs in that territory and have a general circulation in that territory, so as to protect the citizens' right to know."

The Post filed suit against the City of Maysville after the city acknowledged that it has declined to give official statutory notice of special meetings of its Board of Commissioners to the Post, after receiving a request therefor from the Post. The city also acknowledged that it regularly notifies the Maysville Ledger-Independent and a local radio station of special meetings.

Judge Hinton noted that KRS 61.825, the state's Open Meetings/Open Records law, requires that public agencies may call or hold special meetings only after delivering personally or by mail, written notice to each local newspaper of general circulation...24 hours in advance except in emergencies.

The judge said The Post was not a local newspaper of general circulation within the meaning of KRS 61.825 insofar as special meetings of public agencies in Mason County are concerned.

In issuing the opinion, Judge Hinton examined circulation figures of The Post for the northern Kentucky area. Of the 47,024 paid circulation, 344 subscribers are in Mason County and about 300 of those are in the city of Maysville.

The Ledger Independent has 4300 circulation in Mason County, most of that within the city limits.

Judge Hinton said the 344 circulation in Mason County was not enough to make The Post a "local newspaper" and that its news coverage in Maysville is "selective and incomplete."

Simpson elected to Board

Stuart Simpson, of Pulaski Week in Somerset, has been elected to the Kentucky Press Association/Kentucky Press Service Board of Directors.

Simpson completes the term of J.O. Buddy Brown through January, 1992. Brown was elected to the board last fall, took office during the Winter Convention but resigned from the Cumberland County News the following week and thus had to resign from his newly-elected board post.

KWNA, WKPA schedule spring meetings April 6-7

The Kentucky Weekly Newspaper Association and the West Kentucky Press Association have scheduled their 1989 spring seminars for April 6-7.

The KWNA group will meet at Morehead State University while WKPA returns to the Executive Inn Rivermont in Owensboro.

Information about the KWNA meeting is available from Keith Kappes at Morehead State. Scott Dillingham, of the Dawson Springs Progress, is in charge of the WKPA meeting.