

**Counties — County Commissioners — Contracts — Newspapers—Printing.**

Where a newspaper has for several years been published weekly in the county under a certain name and then the publication appears under a new and different name but is published by the same management and from the same office as before, it is in effect the same newspaper, and having been published once a week in the county continuously for at least one year immediately preceding the time when the contract for county printing will be awarded, is qualified to bid and contract under the provisions of Section 4482, Revised Codes of Montana, 1921, in case the Board of County Commissioners awards the contract to it.

Board of County Commissioners,  
Virginia City, Montana.

Gentlemen:

You have submitted to me the following statement of facts:

A newspaper has for several years been published weekly in the county under a certain name. Since February 16, 1923, the publication has appeared under another name, and is being issued and published under the same management and from the same office which published the paper under the old name.

Upon this statement of facts you desire an opinion as to whether or not the Board of County Commissioners of the county will be

justified in letting the county printing contract to the newspaper under the new name in case it be the lowest bidder for that work.

Under Section 4482, R. C. M. 1921, it is the duty of the Board to contract with some newspaper "published at least once a week, and of general circulation, published within the county, and having been published continuously in such county at least one year, immediately preceding the awarding of such contract" to do and perform the printing of the county, and furnish stationery, etc., for a period not exceeding two years. Your request, therefore, involves the question of whether or not the said newspaper can qualify as a bidder and contractor under the terms of the statute.

It appears from the statement of facts that the newspaper with its present name is published by the same management and from the same office which published the paper under the old name. I assume that it is being sent to the same subscribers that the paper under the old name was sent to and in fulfillment of those subscriptions. This being true, it appears that the paper under its present name is the same publication of the publisher, except that it has a different name. In other words, there has been no change except that of name. A somewhat similar situation arose in Minnesota. The paper that was designated to print the delinquent list was published under the name of "Daily Minnesota Tribune." Between the time of its designation and the publication, it changed its name to "Minneapolis Daily Tribune." The matter of the regularity of the publication of the list having been brought before the Supreme Court of that state, the court in its opinion said:

"After the 'Daily Minnesota Tribune' was designated, but before the delinquent list was published, that paper changed its name to the 'Minneapolis Daily Tribune,' and at the same time got what in the parlance of printers is called a 'new dress'—that is, a new outfit of type—but, as the court finds, no other change was made in the paper, and the 'Minneapolis Daily Tribune' was the same paper as the 'Daily Minnesota Tribune' mentioned in the resolution referred to, and, as the undisputed evidence shows, it was published at the same place and sent out to the same subscribers to fill their subscriptions. Notwithstanding the change of name, the evidence abundantly justifies the finding of the court that the newspaper in which the delinquent list was published was the identical one designated in the resolution of the county board. Any other conclusion would be unreasonable, and attended with many particularly serious difficulties."

Reiner et al. v. Newell, 47 Minn. 237.

I can see no difference in the legal phases of the two situations. If the change of name in the Minnesota instance has resulted in the suspension of the newspaper designated in the resolution of the Board, and the creation of a new newspaper, then the new one would

have had no authority to publish the lists. In the instant case, if such a result followed from the change of name, then clearly the newspaper could not qualify under the statute for the reason that it had not been published continuously for at least one year prior to the awarding of the contract. If it did not have such effect, then it could qualify as it is the same newspaper that had been published for several years under the old name. The reasoning applicable to the one case applies also to the other.

It is, therefore, my opinion that the newspaper, having been published once a week in the county continuously for at least one year immediately preceding the time when the contract will be awarded, is qualified to bid and contract under Section 4482, R. C. M. 1921, in case the Board of County Commissioners awards the contract to it.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.