

Printing—Counties—Publication—Newspapers.

A newspaper is not published in a county unless it is printed there also.

T. H. Burke, Esq.,
County Attorney,
Hardin, Montana.

January 2, 1926.

My dear Mr. Burke:

You have requested my opinion on the following facts:

The Searchlight is a newspaper first published January 21st, 1925. The printing of the first twenty issues of the paper was all done at Billings, Montana, with the exception of an insert which was printed at Hardin. The portion of the first twenty issues actually printed at Billings was brought to Hardin where the paper, including the insert, was deposited in the postoffice. Since June 10th, 1925, the entire newspaper, with the exception of a "patent inside," has been printed at Hardin and the paper has at all times been mailed out from Hardin.

You desire to know on what date the Searchlight will be eligible to contract with Big Horn county to do the county printing.

Section 4482, R. C. M. 1921, provides in part that the county commissioners shall contract for the county printing "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 all the printing for which said counties may be chargeable."

In the case of Stange vs. Esval et al, 67 Mont. 301, the supreme court of this state in speaking of this section of our statute said:

"The word 'published,' as used in the statute, evidently means printed and published. It refers to a newspaper having its home in the county."

Such was also the interpretation of a similar statute by the supreme court of Minnesota in the case of *Syndicate Printing Co. vs. Cashman*, 132 N. W. 915, where the court said:

“But we think that ‘publication’ in this case includes ‘printing,’ as well as compiling and distribution.”

The word “published,” as used in section 4482 (*supra*), is not to be given the same meaning as the same term would be understood in connection with a libel. This was pointed out by the supreme court of Alabama in the case of *Age-Herald Pub. Co. vs. Huddleston*, 92 So. 193, where the court said:

“To ‘publish’ a libel, in the sense of doing a civil wrong, is to make it known to any person other than the person libeled. To ‘publish’ a newspaper at any place is, according to common understanding, to compose, print, issue, and distribute it to the public, and especially to its subscribers, at and from that place.”

It is, therefore, my opinion that under the facts submitted by you the *Searchlight* was not “published” at Hardin, within the meaning of section 4482, R. C. M. 1921, until June 10th, 1925, and that from and after June 10th, 1926, the *Searchlight*, if it continues to be published in Big Horn county continuously, will be eligible to bid on a contract for county printing.

Very truly yours,

L. A. FOOT,

Attorney General.