

"daily newspapers of general circulation" in at least two localities. A publication in one daily and in one or more weekly newspapers is not sufficient to comply with the statute.

June 26, 1934.

We have your request for an opinion stating that on June 5, 1934, you inserted in the Billings Gazette, a daily newspaper published at Billings, a call for bids upon state printing. You also state that a similar publication once a week for four consecutive weeks was made in the Montana Labor News, a weekly newspaper published at Butte, Montana, and a similar publication was in the Western Progressive, a weekly paper of Helena, Montana. You inquire whether or not such publication meets the requirements of Chapter 66, Laws of 1923, governing the duties of the purchasing agent.

We need not consider any portion of the law excepting that portion found in Section 7, which reads:

"As soon as the State Purchasing Agent shall determine, as in this section provided, what kind of supplies and the amount necessary for the State of Montana to purchase for its state offices, boards, commissions, departments or institutions, he shall thereupon give notice in 'daily newspapers of general circulation in the State of Montana and published in different localities therein,' for at least 20 days that sealed proposals will be received by the State Purchasing Department, up to a time to be mentioned therein, for furnishing supplies for such state offices, boards, commissions, departments, or institutions, which notice shall also state that detailed statements of supplies to be furnished are on file at the office of the State Purchasing Department and subject to inspection, and shall also specify that at a certain time, to be therein mentioned said proposals will be opened, and contracts awarded to the lowest responsible bidder."

The heavy type above is mine, but the quotation marks enclosing the words "daily newspapers of general circulation in the State of Montana and published in different localities therein," appear in the printed copy of the Session Laws. Just what significance

**Opinion No. 561**

**State Printing—Call for Bids  
—Publication.**

HELD: Under Chapter 66, Laws of 1923, the call for bids for state printing must be published in at least two

should be attached to the quotation marks, I am unable to say.

It seems to me the language of the statute makes it mandatory that the publication must be made in at least two "daily newspapers of general circulation" published in different localities.

First of all, the statute uses the plural form of the word "newspapers," indicating that publication in just one daily newspaper would not be sufficient. This is followed immediately by language which specifically requires that the publication be made in newspapers published in "different localities." This seems to show unmistakably that the legislature intended the publication to be made in a daily newspaper in at least two different localities. The statute does not state the exact number of publications and the purchasing agent, no doubt, would be justified in publishing in several different localities but in any event it seems without question that the publication must be made in daily newspapers in at least two localities.

It may be argued that publication in a weekly newspaper is just as effective as publication in a daily newspaper. From a practical standpoint this may be correct. Some weekly newspapers may have a greater circulation than some daily newspapers. That, however, is a matter which the legislature has not seen fit to leave to the discretion of the purchasing agent for it has expressly stated that the publications shall be made in a "daily" newspaper.

The only way in which the statute can be construed so as to eliminate the necessity of publishing in daily newspapers, and substituting in lieu thereof publication in weekly newspapers, is by striking out of the statute the word "daily". This, of course, may not be done except by the legislature.

It appearing from your statement of facts that the notice was published in only one daily newspaper in only one locality, it is our opinion that the publication is not sufficient to comply with the requirements of Chapter 66, Laws of 1923.

The question has been raised also whether or not there must be a continuous publication of the notice daily

for twenty days. Upon this point the following cases throw some light: *Scilley v. Red Lodge-Rosebud Irr. Dist.*, 83 Mont. 282; *Garry v. Martin*, 70 Mont. 587; *Lawson v. Gibson*, 24 N. W. 447; *Leavitt v. Bell*, 75 N. W. 524; *State v. Hanson*, 115 N. W. 294; *Bancroft Drainage Dist. v. Chicago, etc.*, 167 N. W. 731; *Bryant v. Lang*, 247 S. W. 756; 62 C. J. 975. We are of the opinion that it would be unsafe to publish other than daily. According to the authorities, a paper published every day except Sunday, is considered a daily paper.