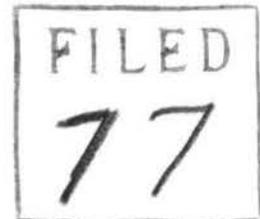


NEWSPAPERS:  
LEGAL PUBLICATIONS:  
NOTICES:

Proposed changes in the Nevada Daily Mail and the Nevada Herald will not change their status as legal publications and daily and weekly newspapers respectively.

December 9, 1953



Honorable Donald B. Russell  
Prosecuting Attorney  
Vernon County  
Nevada, Missouri

Dear Sir:

This will acknowledge receipt of your request for an opinion which reads:

"The Nevada Publishing Company of this city, is, at the present time publishing two newspapers, (1) the Nevada Daily Mail, which is published daily, six days a week, and (2) The Nevada Herald, which is published weekly, on Thursday. These two papers comply with requirements of Section 493.050 of the Missouri Revised Statutes, 1949, and are presently legal publications. The Nevada Publishing Company desires to change the day of publication of The Nevada Herald from Thursday to Sunday and publish the same as the Nevada Sunday Herald; and further, is considering discontinuing the Saturday edition of the Nevada Daily Mail. The Nevada Publishing Company, by representatives, has come to me, as prosecuting attorney, for an opinion as to whether or not the proposed changes would effect the status of these two newspapers as legal publications.

"As to The Nevada Herald the question would seem to be one of whether or not it would be considered a new and different newspaper by reason of the changed date of publication and the change in the name of the paper. As a practical matter it will still be the same newspaper with the same list of subscribers.

"As to The Nevada Daily Mail the question would seem to be one of whether or not the discontinuance of one day's issues would so change the status of the paper as to disqualify it as a legal publication.

"I find no cases in Missouri in point and would appreciate your opinion in regard to these matters. It would be appreciated if your opinion could be forwarded to me as soon as possible as the proposed changes have been planned to take effect in the very near future."

Honorable Donald B. Russell

You state that the two newspapers referred to in your request are presently legal publications and inquire if the proposed change in publication dates of said newspapers and name of one will change their status as legal publications. Ownership remains the same as well as the location of said newspapers.

The Nevada Daily Mail, under the proposed change, will be published only five consecutive days per week instead of six days, the plan being to discontinue only the Saturday edition.

The Nevada Herald, now published only on Thursday of each week, under your proposal, is to be published only on Sunday and you further propose to change the name of the paper to the Nevada Sunday Herald.

You indicate that you have been unable to find any decisions in this state applicable to this request. Neither have we found any decisions applicable. However, we have found several decisions in other states that might at least be persuasive in rendering this opinion.

Furthermore, we find a Statute under Chapter 493, Mo. R. S. Cum. Supp. 51, namely Section 493.045 which specifically defines daily newspaper and reads:

"As used in this chapter the words 'daily newspaper' shall mean a newspaper which is published every day, or each day except Sundays and legal holidays, or which shall be published on each of any five days in every week excepting legal holidays and including or excluding Sundays; except, that when a holiday intervenes in any given week the newspaper may be published on each of any four days in said week. (L. 1951 S. B. 161 § 493.055)"

It seems that we need no decisions defining the word daily newspaper in view of the foregoing statutory provision. However, the following decisions all more or less follow the foregoing statutory definition with the exception of the latter part providing that it may be a daily newspaper when published only 4 days a week when a holiday intervenes. All of these decisions hold that 5 publications each week will qualify a newspaper as a daily newspaper. Hansen vs. City of Havre, 114 Pacific 2d 1053, 1.c. 1057; Fairhaven Publishing Company vs. City of Bellingham, 51 Wash. 108, 98 Pac. 97; State vs. O'Neill, 4 So. 2d 633.

In view of the foregoing statute and decisions we are of the opinion that the proposed change in publication date of the Nevada Daily Mail will not alter its status as a daily newspaper and a legal publication.

Honorable Donald B. Russell

We have found no decision in point as to whether the mere change of the name of a newspaper and not the ownership or change of location of said newspaper will change its status as a legal publication.

In Iowa State Savings Bank vs. Jacobson, 66 N.W. 453, 1.c. 456, 8 S.D. 292, 300, the court defining weekly newspaper said:

"In ordinary acceptation, the expression 'weekly newspaper' unerringly conveys the idea of a paper issued once a week \* \* \*".

In Cook vs. Lockerby, 111 N.W. 628, 1.c. 629, 16 N.D. 19, the court said:

"The expression 'weekly newspaper' can have but one meaning, which is that it is a paper published once in each week, \* \* \*."

Therefore, we are of the opinion that the Nevada Herald, which name you propose to change to the Nevada Sunday Herald and also propose to change the publication date from Thursday to Sunday, will continue to be a weekly newspaper and legal publication.

#### CONCLUSION

It is, therefore, the opinion of this department that the Nevada Daily Mail will not lose its status as a daily newspaper or legal publication by merely discontinuing the Saturday edition. It is the further opinion of this department that the proposed changes in the Nevada Herald from a Thursday publication to Sunday and a change of the name only, not ownership, from Nevada Herald to Nevada Sunday Herald, will not change its status as a weekly newspaper and a legal publication.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Aubrey R. Hammett, Jr.

Very truly yours,

JOHN M. DALTON  
Attorney General

ARH:lw