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Records - Access to Records - Right of Newspaper to Inspect

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to the approval of the court and before the contract is approved, the trustee receives a better offer, the court may refuse to approve the first offer.⁷ Pennsylvania, it may be noted, has enacted legislation abrogating this rule.⁸ Accordingly, where the decree authorizing a sale did not require the court's approval but the sale was made subject to such approval, it was held an abuse of discretion not to approve a fair sale.⁹ One court expressed the theory that both public and private sales reported by trustees under decrees of court are subject to the approval of the court and until ratified, any sale is only an offer to purchase.¹⁰ Aside from the numerous exceptions recognized in the various jurisdictions, it would appear that the majority rule in this country is that a court will not refuse to confirm a sale which has been regularly held and is free from fraud even though a higher bid is made.¹¹ A scrutiny of the cases appears to reveal that the primary conflict is between the public policy of stability of contract and the fiduciary duty of the trustee. North Dakota would likely adopt the majority rule upholding bids reasonably made and accepted, basing such view on the policy of stability of contracts.

K. M. BROWN.

RECORDS — ACCESS TO RECORDS — RIGHT OF NEWSPAPER TO INSPECT. — Suit was brought by the Grand Forks Herald to compel the county court to submit certain records for inspection to reporters. The North Dakota Supreme Court held that according to the statute,¹ records of the County Court shall be open to inspection by persons having business therewith, but the statute² providing for public access to records of public or governmental bodies of the state did not apply to the records of the county court. *Grand Forks Herald v. Lyons*, 101 N.W.2d 543 (N.D. 1960).

Generally a newspaper has no greater right of inspection than that given to the public.³ The Grand Forks Herald requested the right to inspect county records including marriage licenses,⁴ which are not proceedings of the County Court,⁵ and are not part of nor the subject matter of the inspection statute.⁶ County Courts are not "agencies of the state" within the statute providing for public access to records of governmental bodies.⁷ For these reasons it was held a newspaper does have the right to inspect County Court records.⁸ Records of the County Court are open to inspection "by persons having busi-

7. *In re De La Montanya's Estate*, 83 Cal. App. 2d 322, 188 P.2d 494 (1948).

8. 20 Penn. Stat. § 818, see also *in re Stones Estate*, 358 Pa. 335, 56 A.2d 664 (1948); *Blum v. William Goldman Theatres*, 164 F.2d 192 (3rd Cir. 1948).

9. *Evans v. Hunold*, 393 Ill. 195, 65 N.E.2d 373 (1946).

10. *Whitely v. Whitely*, 117 Md. 538, 84 Atl. 68 (1912).

11. *Odom's Transfer & Storage Co. v. Rochford*, 283 S.W.2d 101 (Tex. Civ. App. 1955); *In re Peoples Cab Co.*, 89 F. Supp. 577 (1950) (judicial sale in bankruptcy).

1. N.D. Cent. Code § 44-04-18. "Access to Public Records. Except as otherwise specifically provided by law, all records of public or governmental bodies, boards, bureaus, commissions or agencies of the state or any political subdivisions of the state, or organizations or agencies supported in whole or in part by public funds, or expanding public funds, shall be public records, open and accessible for inspection during reasonable office hours."

2. N.D. Cent. Code § 44-04-18.

3. *Trimble v. Johnson*, 173 F. Supp. 651 (1959).

4. *Grand Forks Herald v. Lyons*, 101 N.W.2d 543 (N.D. 1960).

5. *State v. Roth*, 57 N.D. 196, 220 N.W. 901 (1922).

6. N.D. Cent. Code § 44-04-18.

7. N.D. Cent. Code § 44-04-18.

8. N.D. Cent. Code § 44-04-18.

ness therewith.⁹ The term "business" is used in reference to having a direct or personal interest in the records.¹⁰ Newspapers contend they have a special interest and by refusal of inspection they are hampered and injured in their normal course of business.¹¹ However the courts have uniformly rejected this reasoning as being inaccurate, holding that a newspaper is not entitled to special privileges.¹²

Marriage records are open to public inspection if the person seeking the information has a personal or special interest in the matter.¹³ Such information must generally be for a lawful purpose.¹⁴ But not when the information may be detrimental to the public interest,¹⁶ to satisfy idle curiosity,¹⁵ or to promote scandal.¹⁷

Good conscience and reason dictates that records which are confidential in character should be withheld from any person or persons who seek to use the information thus acquired merely as a source of news. The decision was rightly affirmed.

F. JOHN MARSHALL.

9. N.D. Cent. Code § 27-07-36. "Records of Court to be kept by Judge — Records Open to Public Inspection — The judge of each county court shall safely keep records of such court and all documents and other papers lawfully entrusted to him by virtue of his office or in the course of any proceedings before him. At proper times, he shall deliver the same to the persons entitled thereto or to his successor in office. The records of the court shall be open to inspection during office hours by persons having business therewith."

10. N.D. Cent. Code § 27-07-36.

11. *Nowack v. Fuller*, 243 Mich. 200, 219 N.W. 743 (1928).

12. *Nowack v. Fuller*, 243 Mich. 200, 219 N.W. 749 (1928).

13. See *Clements v. Graham*, 79 Vt. 290, 63 Atl. 146 (1906).

14. See *Kalamazoo Gazette Co. v. Vasburg*, 148 Mich. 460, 111 N.W. 1070 (1902).

15. *Lee v. Beach Publishing Co.*, 127 Fla. 600, 173 So. 440 (1937).

16. *Boylan v. Warren*, 39 Kan. 301, 18 Pac. 174 (1888).

17. *In re Caswell*, 78 R.I. 835, 29 Atl. 259 (1893).