

**Constable, As Collection Agent When. Collection Agent,
Constable May Act as When.**

Constables may act as collection agents if they do not, under color of official authority, make use of oppression or extortion.

July 27, 1916.

Hon A. H. McConnell,
County Attorney,
Helena, Montana.

Dear Sir:

I am in receipt of your recent letter as follows:

"Would you kindly advise this office as to whether a constable would be in malfeasance of office, who solicits collections with the understanding that he is to receive a percentage of the amount collected; also he addresses communications to debtors threatening them with suit if they do not at once pay the amount of the claim."

Replying, I beg leave to advise that I find nothing in the law

prohibiting a constable from following avocations distinct from the official duties he is required to perform, and I am of the opinion, therefore, that such officer may act as a collection agent. A threat, ie. notice to sue a recalcitrant debtor, is not of itself an illegal act, when done by one lawfully representing the creditor. However, if a constable, under pretense or color of official authority, makes use of oppression, as defined in Sections 8283, or 8668, Revised Codes, or extortion, as defined in Section 8663, idem, he would be subject to removal from office as for malfeasance under the procedure outlined in Sections 8991 et seq.

Yours very truly,

J. B. POINDEXTER,
Attorney General.