

**Justice Court, Issuance of Execution When Office is Vacant.
Execution, From Justice Court Where Office is Vacant.**

Where there is no Justice of the Peace in a township there is not method of having an execution issued upon a judgment theretofore rendered in such justice court until a new Justice of the Peace has been appointed or elected to such court.

Helena, Mont., July 14, 1909.

Hon. D. M. Kelly,
County Attorney,
Boulder, Montana.

Dear Sir:

I am in receipt of your letter of the 10th inst., in which you request an opinion upon the following proposition:

"About four years ago a judgment was rendered and docketed in the Justice Court of Basin Township. At the present time there is no justice of the peace in Basin Township, and the docket is in the possession of the clerk and recorder.

Is there any method by which an execution can be issued on this judgment? Can the county clerk certify to the judgment so that the same may be filed in the District Court and execution issued thereon?"

Section 7074 of the revised codes provides for the disposition of the docket of the justice of the peace where the office becomes vacant, until such time as his successor is elected or appointed. Where there is no justice of the peace in a township, we know of no method by which an execution could be secured from a judgment docketed in the docket of a former justice of the peace. The only method we can suggest is that the county commissioners could appoint a justice of the peace for this township, and he then could certify this judgment to the district court, or issue an execution and if he did not care to continue in office he could thereafter resign.

Yours very truly,
ALBERT J. GALEN,
Attorney General.