

**Justices of the Peace, Prohibited from Practicing Law.
Practicing Law, What Is.**

A Justice of the Peace has no right to draw any papers by which an action or proceeding in court may be set in motion.

June 23, 1915.

Hon. Thomas F. Shea,
County Attorney,
Deer Lodge, Montana.

Dear Sir:

I am in receipt of your communication under date the 18th instant, asking for an interpretation of Section 3114, Revised Codes of Montana, 1907, which provides:

"No justice of the peace shall practice law, draw contracts, conveyances, or other legal instruments, or documents, nor shall they take any claim or bill for collection, nor act as a collection agent in any sense whatever, nor shall they perform any legal duties other than those prescribed by law as their official duties in the conduct of cases and proceedings in their courts. Any justice of the peace violating any of the provisions in this section shall be deemed guilty of a malfeasance in office, and shall forthwith be removed from his office of justice of the peace, and shall thereafter be disqualified from holding such office."

An investigation of this subject shows that several states have provisions somewhat similar to the above, but that their courts have seldom been called upon to interpret them. The language of our own section is quite broad, prohibiting the practice of law, drawing contracts, conveyances, *or other legal instruments or documents*, and certainly an affidavit for attachment would come within the term "legal instrument or document," since it is an instrument or document necessary to a legal proceeding. Our own Supreme Court in a late case

In re Bailey, 146 Pac. 1101,
held that a man was practicing law in a court of record when he
"prepared, signed and filed pleadings * * * formulated briefs,
advised clients touching upon legal matters."

I am, therefore, in accord with your opinion in this matter, and hold that a justice has no right to draw any papers by which an action or proceeding may be set in motion.

Yours very truly,

J. B. POINDEXTER,

Attorney General.