

**Registration, for Election. Notary Public, as Deputy Registrar. Justice of the Peace, as Deputy Registrar. Deputy Registrar, Cannot Register Outside his Precinct. Official Signatures, of Notary or Justice of the Peace as Deputy Registrar.**

The law intends that but one deputy registrar shall be appointed in districts having no Justice of the Peace or Notary Public resident therein.

June 28, 1915.

Hon. James L. Davis,  
County Attorney,  
Billings, Montana.

Dear Sir:

I am in receipt of your communication under date the 22nd instant, enclosing a letter from the county clerk of your county, in which he submits four questions relative to the registration law, as follows:

"Can a Notary Public or Justice of the Peace register voters in other precincts than where he resides?"

"Can the County Clerk register voters at places other than his office even though the elector is physically able to appear at his office?"

"Should a Notary Public or Justice of the Peace, in taking registrations of electors, sign the name of the County Clerk and sign his own name as deputy registrar?"

"Can the County Clerk appoint more than one deputy registrar in a precinct where there are no notaries or Justices of the Peace?"

The intent of the law, as found from Sections 8, 9 and 10, Chapter 122 of the Session Laws of the Fourteenth Legislative Assembly, seems to be that registration shall be made in one of two ways: First, by the County Clerk at his office in the county seat; second, by persons authorized by law as deputy registrars in the precincts outside of all precincts within ten miles of the county-seat. Notaries and Justices of the Peace are made ex-officio deputy registrars. Their authority, however, in the matter of registration comes entirely from the provisions of Chapter 122, and not from the fact that they hold notarial commissions or an office of Justice of the Peace.

In answer to the first question of the County Clerk, I am of the opinion that Notaries and Justices of the Peace are limited to the registration of electors within the precinct in which such officer resides, since Section 10 provides:

"It shall be the duty of the deputy registrar to register all electors *within his precinct* applying for registration." and further:

"The deputy registrar shall be a resident elector within the precinct for which he is appointed."

It might be argued that this latter provision applied only to such deputy registrars as are appointed by the county clerk, but as we have seen above, the authority of Notaries and Justices of the Peace to regis-

ter voters arises by virtue of the registration law; there seems to be no good reason for making a distinction between persons declared by law to be registrars and those who receive their authority by appointment. I am of the opinion, therefore, that Notaries and Justices of the Peace are limited in registering voters to the precincts in which they reside.

The County Clerk is authorized to register persons only at his office. Persons residing within ten miles of the county-seat are supposed to appear at the office of the County Clerk to register, the only exception to this rule being where the elector is physically unable to get to the office of the County Clerk. Your second question, therefore, must be answered in the negative.

Your third question has heretofore been answered in a letter to Hon. Paul Babcock, County Attorney of Sheridan County, in which we held that in as much as Justices of the Peace and Notary Publics are made deputy registrars ex officio, that they should sign their names as "Notary Public for the State of Montana" or "Justices of the Peace," for certain precinct, as the case might be. In other words, they are deputy registrars by virtue of the registration law, and not by any appointment. A form suggested for this was as follows:

"John Doe, Notary Public for the State of Montana,  
Residing at ....., Montana,  
My Commission expires .....  
Ex-Officio Deputy Registrar."

Adding the phrase "ex officio deputy registrar," shows the official character of the person making the registration, and makes the matter more explicit.

Section 10 provides that the county clerk of each county may appoint a deputy registrar in each precinct of such county distant more than ten miles from the county court house wherein no Justice of Peace or Notary Public resides. The article "a" as used here denotes the singular. I am of the opinion, therefore, that the law intends that but one deputy registrar shall be appointed in precincts having no Justice of the Peace or Notary Public resident therein.

Yours very truly,

J. B. POINDEXTER,

Attorney General.