

County Records, Books for. Loose Leaf Record Books, Legality of for County Records. Records, of County. .

County Clerks are not authorized to keep their records in loose leaf books, the law requiring that such records be made in a well bound book.

June 30, 1915.

Hon. H. S. Magraw,
State Examiner,
Helena, Montana.

Dear Sir:

I am in receipt of your communication under date the 29th instant, asking for my opinion as to whether the practice of county clerks in this state, in using loose leaf record books for recording deeds and mortgages and such instruments, is proper under the laws of this State?

Section 3032, Revised Codes of Montana, 1907, provides as follows:

"He must, upon the payment of his fees for the same, record, separately, in large and *well bound* separate books in a fair hand"—

following which is an enumeration of the different instruments to be recorded. This language seems to be plain and explicit. It says he must record in well bound books, that is, the recording must be done in books and not upon loose leaves which may be bound afterwards. This question was discussed somewhat in Volume 4, Opinions of Attorney General, page 356, and in Volume 5 at page 50. In the opinion in Volume 4, it was said:

"When the county clerk has recorded an instrument it is then returned to the owner, and the only official record thereof, is that made by the clerk, when the Secretary of State has recorded an instrument, the instrument itself is kept in official possession either of the Secretary of State or of the Treasurer."

From the nature of the record necessary to be kept by the county clerk, and the language of Section 3032, I am of the opinion that county clerks are not authorized to keep their records in loose leaf books, but that the law requires such records to be made in a well bound book.

Yours very truly,

J. B. POINDEXTER,

Attorney General.