

**State Sealer of Weights and Measures—Appointments—
Weights and Measures.**

The Secretary of State as ex-officio State Sealer of Weights and Measures has no authority to appoint either a Deputy Sealer of Weights and Measures or an Inspector of Weights and Measures in Silver Bow county.

C. T. Stewart, Esq.,
Secretary of State,
Helena, Montana.

My dear Mr. Stewart:

You have requested my opinion whether, as ex-officio State Sealer of Weights and Measures, you have authority to appoint a Deputy Inspector of Weights and Measures for Silver Bow county, such deputy to have such authority as is now vested in the State Sealer of Weights and Measures, and such appointment to be without expense of any kind to the state.

Sections 4235 et seq., Revised Codes, 1921, have reference to the State Sealer of Weights and Measures, his deputies and inspectors, and prescribe their powers, duties and authority. Section 4235 creates the office of State Sealer of Weights and Measures, designating the Secretary of State as such officer ex-officio. Deputy Sealers of Weights and Measures are provided for by Section 4235 which makes the Sealers of Weights and Measures of municipal corporations (cities and towns) Deputy Sealers of Weights and Measures, while Inspectors of Weights and Measures are provided for by Section 4236, Subdivision 2, which makes County Auditors in counties of the first, second, third, fourth and fifth classes and County Clerks in counties of the sixth, seventh and eighth classes, Inspectors of Weights and Measures, and no other provision is found which authorizes or contemplates the appointment of other Deputy Sealers of Weights and Measures or other Inspectors of Weights and Measures.

It is, therefore, my opinion that you have no authority to appoint either a Deputy Sealer of Weights and Measures, or an Inspector of Weights and Measures for Silver Bow county.

There is no reason, however, why the City of Butte may not, by ordinance, provide for the appointment of a Sealer of Weights and Measures who would, under Section 4235, be a Deputy State Sealer of Weights and Measures, and no reason why the City of Butte may not enter into an arrangement or agreement with the Associated Industries of Butte whereby the compensation and expense of such officer will be paid by such Associated Industries.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.