

**County Commissioners—County Clerk and Recorder—  
Deputies—Appointments.**

The County Commissioners have no authority to appoint deputies to any county officer. They may fix the number and salaries of such deputies, but each county officer appoints his own deputies.

D. M. Durfee, Esq.,  
County Attorney,  
Philipsburg, Montana.

My dear Mr. Durfee:

Your letter was received in which you state that when the County Clerk and Recorder assumed office on January 2nd, 1923, the Board of County Commissioners appointed what they termed a "general deputy," who, since that time, has worked continuously in the office of the County Clerk and Recorder, and who from appearances will continue to do so; that such deputy is not required in that office and in order to reduce the expenses of the office the County Clerk and Recorder desires to dispense with the services of such deputy; and you desire my opinion as to whether the Board of County Commissioners may require the County Clerk and Recorder to continue such deputy in his office.

The Board of County Commissioners has no power or authority to appoint a "general deputy," and neither has it any power or authority to appoint a deputy or deputies to any county officer. The power to appoint deputies is given directly to county officers by Section 4731, Revised Codes of 1921. The power and authority to determine and fix the number of deputies which each county officer may appoint is given the Board of County Commissioners by Section 4874, Revised Codes of 1921, as amended by Chapter 82, Session Laws of 1923, but the Board has no power or authority under such section to appoint such deputies or to appoint a general deputy. The Board simply fixes the number of deputies which the several county officers may appoint, and fixes their salaries, and each county officer may then appoint as his deputies such persons as he desires, and the Board of County Commissioners has nothing whatever to do with naming such deputies.

If the Clerk and Recorder requires the services of a deputy in his office for all, or any part of the year, it is his duty to apply to the Board of County Commissioners for authority to appoint such deputy. If the Board authorizes such deputy it must fix the time such deputy is to serve and the salary to be paid, and the County Clerk and Recorder may then appoint such person as he desires, the Board having nothing whatever to do with naming the person who is to act as such deputy.

If the County Clerk and Recorder does not require the services of a deputy he should so notify the Board of County Commissioners, and he may then revoke the appointment of such deputy if one is employed in his office.

Very truly yours,

WELLINGTON D. RANKIN,  
Attorney General.