

### Justices of the Peace—Coroners—Office—Candidates.

A candidate for justice of the peace may not accept the nomination for that office and also for the office of coroner.

August 13, 1928.

Horace W. Judson, Esq.,  
County Attorney,  
Cut Bank, Montana.

My dear Mr. Judson:

You have requested my opinion whether a candidate for justice of the peace and who receives the nomination for that office may also accept the nomination of coroner when his name has been written in for that office.

Some of the provisions of sections 12381 to 12393 R. C. M. 1921 would seem to indicate that the duties of the coroner might be incompatible with those of the justice of the peace.

Section 4852 R. C. M. 1921 provides:

“If the office of coroner is vacant, or he is absent or unable to attend, the duties of his office may be discharged by any justice of the peace of the county, with the like authority and subject to the same obligations and penalties as the coroner.”

And section 4922 also provides that “a justice of the peace, acting as coroner, is allowed the same fees as the coroner, and no more.”

It is my opinion, however, that it was the intention of the legislature that a candidate for one office may not be a candidate for another office and that the candidate for justice of the peace may not accept the nomination for the office of coroner.

You have also submitted the following statement of facts and request for opinion:

“Also, at the last primary election one Thos. B. Magee duly filed his nominating petition on the republican ticket for clerk of the district court. No person filed a nominating petition for this office on the democratic ticket. At the election Mr. Magee was, of course, nominated on the republican ticket. On the democratic ticket Mr. Magee received eight votes for this office and

one Ora Davis received the same number for this office, each having been voted for by having their names written in on the ballot. Thereafter, the county clerk duly gave notice that it would be determined by lot which one of these parties was nominated on the democratic ticket. At the drawing Mr. Magee's name was drawn, thus being nominated on both tickets. As he has not made any selection within the time allowed, it is the intention of the county clerk to place his name on the republican ballot at the general election, leaving no candidate to be named on the democratic ticket. Was this procedure correct, or should Ora Davis's name be placed on the democratic ticket as candidate for that office?"

The procedure adopted by the county clerk was correct and the name of Ora Davis should not be placed on the democratic ticket as a candidate for the office of clerk of the district court since he did not receive the nomination for that office on that ticket.

Very truly yours,

L. A. FOOT,

Attorney General.