

**Opinion No. 270.****County Treasurer—Oaths—Acknowledgment—Motor Vehicles,  
Transfer of Title.**

HELD: 1. Oaths and acknowledgments defined and distinguished.

2. The County Treasurer is not authorized by statute to take acknowledgments.

April 20, 1936.

Mr. F. F. Haynes  
County Attorney  
Forsyth, Montana

You have requested my opinion as to whether a County Treasurer may take the acknowledgment for applications for motor vehicle licenses. Since applications for motor vehicle licenses are not required to be acknowledged by our statute, I assume that you have reference to applications for transfers of title to motor vehicles, which must be acknowledged. You have called our attention to Sections 4725 and 4738, R. C. M. 1921, under which the county treasurer claims he has such authority.

Sections 6906 and 8875, R. C. M. 1921, name who may take **acknowledgments**—the county treasurer is not included. Section 4738 provides that every officer mentioned in Section 4725 and every justice of the peace "may administer and certify oaths." Section 4725 lists all the officers of a county. Thus, all the officers of a county may administer and certify oaths. The county clerk and the clerk of a court of record (district court) are the only two officers which are mentioned in both Sections 6906 and 4725.

The question resolves itself into this: May officers authorized to administer and certify oaths also take acknowledgments? Sections 16 and 10713, R. C. M. 1921, define "oath" as follows: "Oath includes affirmation

and declaration." Public officers are required to take an oath of office (Section 430, R. C. M. 1921). In its broadest sense an oath includes any form of attestation by which a party signifies that he is bound in conscience to perform an act faithfully and truthfully (46 C. J. 838, Section 1.) An acknowledgment is a formal declaration or admission before an authorized court or public officer by a person who has executed an instrument, that such instrument is his act and deed (1 C. J. 745, Section 1). See also the definitions of "oath" and "acknowledgment" given in the dictionaries.

In my opinion there is a clear distinction between an "oath" and an "acknowledgment." It is also clear that the legislature in declaring what officers may administer and certify oaths and what officers may take acknowledgments did not regard the words "oaths" and "acknowledgments" as synonymous for, as shown above, the officers who may administer and certify oaths are not the same officers who are authorized to take acknowledgments. It is therefore my opinion that a county treasurer is not vested with statutory authority to take acknowledgments, and, in the absence of such authority, he may not do so.