

**Opinion No. 135.****Elections — Registration — Notaries  
Public—Justices of the Peace.  
Deputy Registrars.**

1. Justices of the peace and notaries public are not entitled to collect from the court the fee of ten cents provided for in Section 557, R. C. M. 1935, as amended by Section 5, Chapter 172, Laws 1937.

2. The jurisdiction of the deputy registrars which are appointed by the county commissioners extends only to the precinct for which they are appointed.

3. The jurisdiction of notaries public and justices of the peace extends to the boundaries of the county except they have no authority to register electors residing ten miles or less from the county courthouse.

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August 11, 1937.

Honorable Fred C. Gabriel  
County Attorney  
Malta, Montana

Dear Mr. Gabriel:

You have asked for a confirmation of your opinion to the Board of County Commissioners relating to the registration of electors. The questions are not specifically stated but we understand they are:

1—Are justices of the peace and notaries public entitled to the fee of \$.10 for registration of electors?

2—What is the jurisdiction of deputy registrars?

Section 557, R. C. M. 1935, as amended by Section 5, Chapter 172, Laws 1937, provides:

“Section 557. All notaries public and justices of the peace are designated as deputy registrars in the county in which they reside, and may register electors residing more than ten miles from the county courthouse in any precinct within the county. The county commissioners shall appoint a deputy registrar, other than notaries public and justices of the peace, for each precinct in the county. Such deputy registrar shall be a qualified, taxpaying resident elector in the

precinct for which he is appointed and shall register electors in that precinct, and shall receive as compensation for his services the sum of ten (10) cents for each elector registered by him. Each deputy registrar shall forward by mail, within two (2) days, all registration cards filled out by him to the county clerk and recorder."

It will be noted that the sentence in the above section which deals with the qualifications and pay of deputy registrar uses the words "such deputy registrar" and does not use the words "deputy registrars." It is evident that the words "such deputy registrar" refers to the deputy registrar other than the notaries public and justices of the peace to be appointed by the county commissioners for each precinct, in the preceding sentence. It is my opinion, therefore, that only such deputy registrars as are appointed by the county commissioners may collect from the county the fee of \$.10 for each elector registered by them. I am unable to find any language in this section which would authorize justices of the peace or notaries public to collect such fee from the county.

As to jurisdiction, this section specifically provides "such deputy registrar" "shall register electors in that precinct" for which he is appointed. He may not, therefore, register electors in any other precinct. On the other hand, this section specifically provides that notaries public and justices of the peace may register electors residing more than ten miles from the county courthouse in any precinct within the county. In other words, their jurisdiction outside of the ten mile limit is co-extensive with the boundaries of the county. (See Volume 8, Op. of the Atty. Gen'l, page 167; and Volume 11, Opinion of the Attorney General, page 334.) This ten mile limitation, as well as jurisdiction to the boundaries of the county, does not apply to the deputy registrar appointed by the county commissioners. (See Volume 11, Op. of the Atty. Gen'l, page 334; also, Volume 17, Op. of the Atty. Gen'l, No. 109½.)