

No. 358

**COUNTY TREASURER, oaths may be administered by—  
OATH AND AFFIRMATION, county treasurer may admin-  
ister—MOTOR VEHICLES—Certificate of title of motor  
vehicle**

**Held: A county treasurer has authority to administer and certify oaths and this includes administering an oath to a person making a sworn statement in writing, or affidavit, which verifies the form of an "Application for a Certificate of Title for a Motor Vehicle."**

February 14, 1942.

Mr. Walter T. Murphy  
County Attorney  
Mineral County  
Superior, Montana

Dear Mr. Murphy:

You have asked this office whether a county treasurer has the authority to administer and certify oaths, particularly with reference to applications for a certificate of title for a motor vehicle. You have furnished a printed

form of this application. The contents thereof are verified by an affidavit at the end thereof which is to be subscribed and sworn to by the applicant or its agent or officer, if the applicant is not an individual. You state recently the office of the Registrar of Motor Vehicles has refused to accept applications where the oath has been administered and certified by the county treasurer and inconvenience will result if this officer may not administer the required oath.

Section 4725 of the Revised Codes of Montana, 1935, enumerates the county officers, including "a treasurer." Section 4738 of the Revised Codes of Montana, 1935, is as follows, in its entirety:

**"Section 4738. County officers may administer oaths.** Every officer mentioned in section 4725, and every justice of the peace, may administer and certify oaths."

A misunderstanding may have arisen because of the difference between an "oath" and an "acknowledgment." Authority to administer an oath does not include the power to take an acknowledgment. So this office has held in an opinion reported in Volume 16 of the Opinions of the Attorney General, page 284. Section 6906 and Section 8875 of the Revised Codes of Montana, 1935, specify what officers may take acknowledgments—and county treasurers are not included. It appears, however, an acknowledgment is no part of the application for certificate of title for a motor vehicle but, as stated, the application is verified by an "affidavit," which is merely "a declaration in writing sworn to or affirmed by the party making it before **some person who has authority to administer an oath,**" (2 C. J. 317), or, as defined by Section 10632 of the Revised Codes of Montana, 1935, "a written declaration under oath, made without notice to the adverse party."

It is my opinion a county treasurer has authority to administer and certify oaths and this includes administering an oath to a person making a sworn declaration in writing, or affidavit, which verifies the form of an "Application for a Certificate of Title for a Motor Vehicle."

Sincerely yours,

JOHN W. BONNER  
Attorney General