

Opinion No. 98**Elections, Registrations—
Deputy Registrar.**

Held: Under our present statutes, the board of county commissioners may not appoint a roving deputy clerk and recorder for the purpose of registering voters, but it is mandatory for the board of county commissioners to appoint in each precinct of each respective county a deputy registrar, other than notaries public and justices of the peace, which deputy registrar shall be a qualified, taxpaying resident elector in the precinct for which he is appointed who shall register eligible electors in such precinct only, and such registrar shall receive twenty-five cents from the county for each elector so registered by him, as compensation for his services.

January 20, 1948

Mr. George Allen
County Attorney
Park County
Livingston, Montana

Dear Mr. Allen:

Mr. Bodine heretofore requested my opinion whether or not the board of county commissioners has authority to appoint a "roving deputy county clerk and recorder" for the purpose of registering citizens for voting.

In answering your inquiry, it should be pointed out that originally under our statutes it is contemplated all persons desiring to be registered so they will be eligible to vote should call at the office of the county clerk and recorder and there fill out and execute before such officer their registration card.

However, the legislature, by Chapter 51 of the Laws of 1941, which amended Section 557, Revised Codes of Montana, 1935, has extended the operation of the law as follows:

"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 (10) miles from the county court house in any precinct within the county and shall receive as compensation for their services the sum of twenty five (25) cents for each elector registered by them. . . .

Each deputy registrar shall forward by mail, within two (2) days, all registration cards filled out by him to the county clerk and recorder."

By the foregoing provision each notary public and each justice of the peace is a deputy registrar and may register any and all electors who reside more than ten miles from the county courthouse, and for each registration card filled out and mailed as required shall receive from the county twenty-five cents.

Also, Chapter 51, Laws of 1941, provides further:

"The county commissioners shall appoint a deputy registrar, other than notaries public and justices of the peace, for each precinct in the

county and each such deputy registrar so appointed shall be a qualified taxpaying resident elector in the precinct for which he is appointed, and shall register electors in that precinct, and shall forward by mail within two (2) days, all registration cards filled out by him to the county clerk and recorder and shall receive from the county twenty five (25) cents for each elector registered by him." (Emphasis mine).

By the foregoing provision the legislature has provided facilities for registering the electors of the county: (1) the office of the clerk and recorder, where any elector in the county may be registered; (2) each notary public and each justice of the peace in the county who may register any elector in the county who resides more than ten miles from the county courthouse; (3) and a deputy registrar who shall be appointed by the board of county commissioners for each precinct in the county who shall register any elector in his precinct, all at the expense of the county.

As to Section 557, supra, before the amendment of 1941, see Official Opinion No. 135 at page 147 of Volume 17. Official Report and Opinions of the Attorney General.

I find no statute or law now in effect providing for or authorizing the board of county commissioners to appoint a roving deputy county clerk and recorder for registration purposes, or at all.

Therefore, it is my opinion under our present statutes, the board of county commissioners may not appoint a roving deputy clerk and recorder for the purpose of registering voters, but it is mandatory for the board of county commissioners to appoint in each precinct of each respective county a deputy registrar, other than notaries public and justices of the peace, which deputy registrar shall be a qualified, taxpaying resident elector in the precinct for which he is appointed, who shall register eligible electors in such precinct only, and such registrar shall receive twenty-five cents from the county for

each elector so registered by him as
compensation for his services.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General