

Opinion No. 39-3318

October 25, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. Ray C. Haner, Justice of the Peace, Precinct No. 6, Colfax County, Raton, New Mexico.

{*119} In your letter of October 24th you ask the following questions relating to justices of the peace.

- "1. Can any one of these Justices of the Peace, hold court in any of the 4 precincts within the city limits, besides the one from which elected?
2. Has anyone of them jurisdiction in criminal cases, in any precinct within City limits, other than the precinct in which elected?
3. What is the jurisdiction as to Precinct, in Civil Matters?
4. Can any one of them have their office in precinct other than the one from which elected?
5. What is the jurisdiction as to Police Magistrate?
6. Has any one of them the right to perform marriage ceremony in any other precinct other than the one from which elected."

Under Chapter 91 of the Session Laws of 1937, the jurisdiction of justices of the peace shall be coextensive with the limits of the county in which they shall be elected; provided, that every justice of the peace shall reside and hold his office in the precinct for which he may be elected, except that in counties in which there is located or situated a city or town of more than two thousand inhabitants, as shown by the last United States census, any such justice of the peace living in and elected in a precinct which is situated in whole or in part within the corporate limits of such town or city of more than two thousand inhabitants may try any and all cases which he is otherwise entitled to try and may hold his court for the trial thereof and have his office anywhere within the corporate limits of the said city or town; "and provided further that any justice of the peace may try any and all cases, which he is otherwise entitled to try, in another precinct of the same county in which he was elected, and is acting as justice of the peace, when requested, in writing, so to do by the duly qualified and acting justice of the peace of said precinct.

Justices of the peace shall have jurisdiction in all civil matters in which the debt or some claim shall not be in excess of \$ 200.00, exclusive of interest. (79-207, 1929 Code.)

Justices of the peace are given jurisdiction in all cases of misdemeanors where the punishment prescribed by law may be a fine of \$ 100.00 or less, or imprisonment for six months, or less, or both by such fine and imprisonment; provided, that this act shall not apply to misdemeanors, jurisdiction whereof is exclusively vested in district courts. (79-208, 1929 Code.)

Under Chapter 230, Session Laws of 1939, a police magistrate court was created and established in all incorporated cities and towns, which court is presided over by a police magistrate known as a police judge. Said police court has jurisdiction over all offenses and complaints arising under the ordinances and laws of such cities and towns to the same extent and with like effect as have been exercised in such cities and towns by justices of the peace acting as police judges in the past. Said police judges shall be elected for a term of two years at each regular city election and vacancies may be filled by the mayor, subject to the approval of the city council. The interval between the adoption of said law and the next regular city election is deemed a vacancy and shall be filled by appointment, as above mentioned.

A police magistrate does not necessarily have to be a justice of the peace. A justice {**120*} of the peace may, however hold the office of police judge.

In your last question you asked whether marriage ceremonies could be performed by justices of the peace in a precinct other than the one in which he resides. A marriage contract is a civil matter and shall be treated as any other civil matter.