

County Treasurer, Assessments By. Poll Taxes, Assessment and Collection Of.

Under Section 3971, Political Code, it is the duty of the Assessor to ascertain the number of employees employed by any person, corporation, etc., and to turn the same over to the Treasurer, whose duty it is to collect such taxes.

Helena, Montana, July 1, 1907.

Thomas Nelson Marlow, Esq.,
County Attorney,
Missoula, Montana.

Dear Sir:—

Your letter of the 22nd ult. requesting an opinion of this office, received. The question submitted being as follows:

“It being the duty of the County Treasurer to collect all taxes, and to take the necessary steps to collect the poll taxes in this county, can he, as County Treasurer, under Section 3791, Political Code, require the person or his agent, or any officer

or agent or manager of any association or corporation, to make a verified statement showing the number and giving the names of the employees of such persons, association or corporation liable to poll tax?"

In our opinion the County Treasurer would not have this authority.

In an opinion of this office to Hon. N. B. Smith, County Attorney, of April 28, 1905 (Opinions of Attorney General 1905-'06, page 98) it was held that under the Constitution the County Treasurer was made the collector of taxes, and that therefore such authority could not be exercised by the Assessor. On the other hand, it necessarily follows that the County Treasurer cannot be given authority to perform work which is imposed by the Constitution upon the Assessor.

Under said Section 3971 the law makes it the duty of the Assessor to procure the information therein required. When he has procured such information it is his duty to furnish it to the County Treasurer, who must then, under the Constitution, proceed to collect the taxes. As was suggested in the opinion to Mr. Smith, referred to above, the Assessor is sometimes appointed Deputy County Treasurer without compensation. In such event he could make the assessment as Assessor, and then collect the taxes as Deputy County Treasurer, giving a receipt therefore in the name of the County Treasurer signed by himself as deputy.

As per your request, we herewith enclose copy of opinions given to Mr. D. M. Durfee and H. C. Shultz upon the questions of who are liable for Road and Poll taxes.

Very truly yours,

ALBERT J. GALEN,

Attorney General.