

New Counties, Adjustment of Property. Counties, Adjustment of Property. Property, of New County. Money, Property.

Upon the creation of a new county under the provisions of Chapter 112, Laws of 1911, the commission in ascertaining the value of property belonging to the old county must include as property cash in the county treasury belonging to the county.

March 23, 1912.

Hon. J. B. Leslie,
 Hon. J. E. Erickson,
 Chairmen, Boards of Commissioners,
 Chouteau, Hill and Blaine Counties,
 Fort Benton, Montana.

Gentlemen:

On March 20th I received from you the following telegram:

"In adjusting the affairs of Chouteau, Blaine and Hill counties, Section 7, Chapter 112, Twelfth Session, as provided for ascertaining the total value of all property in the old county, should the commissioners include as property the cash in hand of county treasurer?"

To which I replied as follows:

"Cash belonging to county strictly, not including funds held for state, school districts, road districts, cities and exclusive of uncollected taxes should be considered as property of county."

I write this letter to confirm such message and preserve office records of same.

Section 7, Chapter 112, Laws of 1911, provides that your commissioners shall determine,—

"The total value of all property at that time belonging to each of said counties from which territory was taken."

which in this instance would mean Chouteau county. Further on in said section the following language is used,—

"The value of the property belonging to the old county at the date of the declaration of the result of said election."

By the provisions of Sec. 16, Revised Codes of 1907, the word "property" is defined. Subdivision 1, of said Sec. 16 being as follows:

"The word property includes both real and personal property."

In subdivision 3,

"The words personal property include money, goods, chat-

tels, things in action, and evidence of debt."

From these provisions, it is in my opinion clear that the property to be considered by your commissions must necessarily include the cash in the county treasury to the credit of the county. Provision is made in Section 10, of said Chapter 112, for the transfer of moneys to the credit of school districts and road districts, and these amounts even though in the county treasury at the time of adjustment should not be included or considered by you as the property of the county; but only such cash as belongs strictly to the county as such, should be included.

Yours very truly,
ALBERT J. GALLEN,
Attorney General.