

**Criminal Cases, Jurisdiction in. County Division, Where
Should Information Be Filed After.**

The district court of the county which includes the locality where the offense is alleged to have been committed has jurisdiction of such actions.

February 15th, 1913

Hon. H. S. McGinley,
County Attorney,
Fort Benton, Montana.

Dear Sir:

I am in receipt of your letter of the 11th inst., submitting the question:

"In what county should information be filed against a person accused of committing a crime in a certain locality that was then a part of Chouteau County, and is now within the boundaries of Blaine County?"

I also acknowledge receipt of your opinion respecting the same. On March 13th, 1912, this department in answer to an inquiry of County Attorney B. L. Power, reached the conclusion that cases pending at the time of the county division, although committed within the territory which afterwards became a part of the new county, should be tried in the county where they were instituted, unless the defendant himself requested their removal. The statement therein made that

"No one has vested interest in county lines nor is there any guarantee given by law or otherwise that county lines will not be changed."

Opinions Attorney General, 1910-12, p. 404.

Vol. 1, Bishop Crim. Proced. Sec. 49, Subdiv. 2.

Is very apropos to the question here considered. The provision contained in Sec. 16, Art. 3, of the State Constitution that the defendant is entitled to a trial in the county or district where the offense is alleged to have been committed, does not prohibit the changing of county lines, nor guarantee to the defendant that he will be tried in the county which then included within its boundaries the particular locality where the offense was committed. The Legislature has never divided the state into "districts" for the purpose of determining the jurisdiction in criminal cases, but has under the authority given by the constitution used the word "county" instead of "district." From

these considerations, it follows that the district court of the county which includes the locality where the offense is alleged to have been committed has jurisdiction of such actions. The information or complaint, however, should allege the fact that at the time the offense was committed, the locality was within Chouteau County, but that said locality is now within the County of Blaine, so as to show that the defendant is being tried in the county which includes the locality where the offense is alleged to have been committed.

Very truly yours,

D. M. KELLY,
Attorney General.