

fit which, in fact and good conscience, belongs to another county.

**Opinion No. 78**

**Counties—Action for Money Had and Received.**

HELD: Where moneys have been collected by or credited to one county which, in fact, belong to another county, an action may be brought to recover the same.

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February 13, 1933.

I have your letter relative to an action which Roosevelt County proposes to bring against Sheridan County to recover certain automobile license taxes credited to Sheridan County by the Registrar of Motor Vehicles by reason of the fact that the residents of Roosevelt County mailed their applications to the Registrar from a postoffice in Sheridan County when, in fact, their residence was in Roosevelt County, and that by reason of the fact of the post-office address being given as Sheridan County the license tax was credited to Sheridan County.

Where moneys have been collected by or credited to one county which, in fact, belonged to another county, an action may be brought to recover the same. This, in my opinion, would be an action in the nature of one for money had and received to its use and benefit.

In this connection your attention is called to the case of School District No. 12 v. Pondera County, 89 Mont. 342, 297 Pac. 498. This was a case in which a school district brought suit against the county for interest and penalties on delinquent taxes collected by the county for the benefit of the school district and retained by the county. You will also find that it discusses the statute of limitations as applicable to a suit of this character. While in that case the action was in the nature of an agreed case, under the provisions of Section 9872 I can see no reason why an action for money had and received would not lie in a suit of this character where one county has received money to its use and bene-