

Township—Meaning of in Posting Notices of Sale.

Section 6828, Revised Codes of 1907, refers to townships created by Boards of County Commissioners under Section 2894, Revised Codes of 1907, and not townships of United States Government survey.

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My dear Mr. Shannon:

You have requested my opinion as to the meaning of the word "township" in Section 6828 of the Revised Codes of 1907.

Section 6828, above, provides for the posting of notices of sale of property being sold by the Sheriff under execution in three public places in the township or city where the property is situated, in the case of real estate, or where it is to be sold in the case of other property.

The Constitution of this State contains a number of provisions relating to townships, as follows: That the affairs of a township must not be regulated by special act of the Legislature (Art. V, Sec. 26); that debts of a township must be paid by levy of taxes (Art. XII, Sec. 8); limiting the indebtedness of a township (Art. XIII, Sec. 6); filling vacancies in township offices (Art. XIV, Sec. 5); authorizing the Legislature to provide for township officers (Art. XVI, Sec. 6); and providing for the election of at least two Justices of the Peace in each township (Art. VIII, Sec. 20).

Section 2894, Revised Codes of 1907, authorizes the Board of County Commissioners to divide the county into townships, school, road and other districts, and Section 2895 provides the means for organizing new townships. (State v. Cronin, 41 Mont. 293, construes these sections.)

Whenever the word "township" is used in the Constitution and in the statutes, it refers to the subdivision of the county created, or to be created, by the Board of County Commissioners under Section 2894, above. Nowhere is there any reference to the tract of land six miles square and containing thirty-six sections of six hundred forty acres each, known as a township under the system of survey of the United States Government.

It is my opinion that the "township" referred to in said Section 6828, above, means that subdivision of a county created by the Board of County Commissioners under the provisions of Section 2894, above, and not the township of the United States Government land survey.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.