

Justices of the Peace, Number in Township. Board of County Commissioners, Appointment of Justices of the Peace. Township, Organizing New.

County Commissioners have no authority to appoint more than two justices of the peace in any organized township. They may, however, on receiving a petition, organize a new township, and then appoint two justices of the peace for such township.

Helena, Montana, January 9, 1909.

Board of County Commissioners, Lewistown, Montana.

Gentlemen:

We are in receipt of your request for an opinion, as submitted by Mr. Ayres, on the following proposition:

“Have the Board of County Commissioners the authority to establish a Justice Court and appoint a Justice to fill such appointment where there are already two Justice Courts in the

township where said appointment is to be made.”

Section 20, Article VIII., of the Constitution, and Section 6279 of the Revised Codes, provide that there must be at least two justices' courts in each of the organized townships of the state.

However, Section 2958, of the Revised Codes, limits the number of justices of the peace in each township to two, as it provides that,

“The officers of townships are: two justices of the peace.”

etc.

You are, therefore, advised that you have no authority to create an additional justice court and appoint a third justice of the peace in a township now organized and having two justices of the peace therein.

However, subdivision 2 of Section 2894 gives the Board of County Commissioners authority to divide the county into townships, and Section 2895 provides that the board may set off and organize new townships whenever a petition is presented to it, signed by at least fifty citizens residing in the territory to be incorporated in the new township. It would seem, therefore, that the only method by which you could get an additional justice of the peace would be to have a petition presented in accordance with said section 2895, and then create a new township. Of course, when you have created a new township there should be two justices of the peace appointed in such township, as the law requires that there must be two in each organized township.

Very respectfully yours,

ALBERT J. GALEN,
Attorney General.