

Opinion No. 183.

Townships, Abolishment and Consolidation—Petition—County Commissioners.

HELD: A Board of County Com-

missioners has ample authority to change the boundaries of a township or to abolish a township altogether, and a petition of at least fifty citizens is not necessary to justify such affirmative action.

October 9, 1935.

Mr. J. W. Lynch
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You have asked us whether or not in our opinion the board of county commissioners of Chouteau County is vested with authority to abolish an existing township and attach its territory in parts to other existing townships without a petition therefor being first presented to the board by at least fifty citizens residing in the township proposed to be abolished.

Section 4468, Revised Codes 1921, prohibits the board of county commissioners of any county from setting off or organizing a new township "unless a petition is presented to the board, signed by at least fifty citizens resident therein," but we think it has no application here. This is not a case involving the organization of a new township but a case involving the termination of an existing township. By the term "new township" is meant an additional township carved out of one or more existing townships, and not a reorganization or rebounding of an old township. (*McDonald v. Doust*, 81 Pac. 60; *Jones v. Rountree*, 23 S. E. 311.)

Sections 4465, Revised Codes 1921, as amended by Chapter 100, Laws of 1931, among other things provides that the board of county commissioners shall have power "to divide the counties into township * * * districts, * * * change the same, and create others as convenience requires, by consolidation of two or more townships, or otherwise." Construing a similar provision in the case of *State ex rel. Gillett v. Cronin*, 41 Mont. 293, the supreme court held that the board had ample authority to change the boundaries of a township or to abolish a township altogether.

Our conclusion is that a petition is not necessary to justify affirmative action on the part of the board.