

OPINION
45-75

December 18, 1945 (OPINION)

DRAINAGE DISTRICTS

RE: Dissolution of

This will acknowledge the receipt of your letter of December 15, 1945, in which you request the interpretation of this office as to the intent and meaning of section 2 of chapter 14 of the special session laws of 1944, relating to the dissolution of drainage districts. In your letter you say: "You will also note that the sole purpose of the hearing is to determine the number of valid signatures on said petition. In your opinion is the hearing restricted merely to the determination of the validity of the signatures or may the board permit the withdrawal of signature at such hearing; or, in your opinion, may the Board permit other signatures to be added at the time of such hearing?"

The actual purpose of the hearing prescribed in section 2 of chapter 14 of the special session laws of 1944 is, in my opinion, to determine whether or not a drainage district shall be dissolved. In order to hold such hearing, the board of county commissioners must be presented with a petition signed by the owners of property subject at least to fifty-one percent of "the liability for maintaining such drain." The purpose of the hearing is not only to determine whether or not "the owners of fifty-one percent or more of the property subject to liability for maintaining a drain have signed the petition." The real purpose of the hearing is to determine whether or not the drainage district shall be dissolved and the drain therein abandoned.

At such hearing the board should, in my opinion, permit property owners to be heard for and against dissolution and abandonment. Before the hearing is closed the board should, in my opinion, permit signatures of property owners to be added to the petition or withdrawn from the petition. The minutes of the board should show such additions and withdrawals. Then when the hearing is declared closed, if the board shall find that fifty-one percent or more of the signatures of owners of property liable for maintaining the drain remain on the petition, the board must by motion or resolution - preferably resolution - declare the drain abandoned and the district dissolved.

NELS G. JOHNSON

Attorney General