

**County Clerk and Recorder, Duties Of—County Officer
Must Remain At Seat Of Office.**

Absence of the county clerk and recorder from his seat of office constitutes grounds for his removal from office.

April 24, 1920.

Mr. E. E. Collins,
County Attorney,
Billings, Montana.

Dear Sir:

I have your letter of March 29th in which you ask whether the County Commissioners may refuse to pay salary to the County Clerk of your County, on the ground that he spends most of his time outside of Yellowstone County and in the discharge of duties as Cashier of a bank.

Section 2894 of the Revised Codes as amended by Chapter 15 Sess. Laws of 1919, subdivision 1, provides that the County Commissioners shall supervise the official conduct of all County officers, etc., and "see that they faithfully perform their duties; direct prosecutions for delinquencies."

The Revised Code by Section 2968 further provides:

" * * * the County Clerk, * * * must keep their offices open for transaction of business from nine o'clock A. M., until five o'clock P. M., continuously every day in the year except holidays, and at any other time when business requires it."

Section 2967 of the Revised Code provides that all County officers must keep their offices open at the County Seat.

The above two clauses taken in connection with the law generally governing public offices and the relation of master and servant, in my opinion require not only that the public offices be kept at the County Seat, but that the incumbent thereof give his time to the discharge of the duties which the law imposes upon such offices. As long as a person is the duly elected and qualified officer of a particular office, I am of the opinion that the salary must go to that person. The proposition as it occurs to me, however, is that when an officer fails to discharge his duties the County Commissioners should hold him to a strict account or bring such proceedings as would remove him from his office.

Respectfully,

S. C. FORD,

Attorney General.