

County Seat, Petition for Removal of.

Where a petition for the removal of a county seat follows the statute is sufficient.

August 30, 1920.

Mr. C. E. Collett,
County Attorney,
Sidney, Montana.

Dear Sir:

I have your letter of the 28th inst., with reference to the notice of the filing of petition for removal of county seat as published by the county clerk and recorder, and enclosing copy of such notice, and requesting that I advise you whether or not the same is sufficient.

The statute, Section 2851 Revised Codes, as amended by Chapter 10, Session Laws 1919, requires the petition to be presented to the board of county commissioners at least sixty days prior to any action being taken thereon by the board, and requires that action thereon must be taken at a regular meeting of the board. The same section also requires the county clerk to publish a notice of the filing of the petition, which notice must state, among other things, that the petition will be presented to the board at its next regular meeting for action thereon. This section is very carelessly and loosely drawn, and the statute, Section 2891, as amended by Chapter 148, Session Laws 1915, requiring the board to meet in regular session on the first Monday in each month, it is impossible for sixty days to expire after the filing of the petition and the first presentation, no person can be misled by the notice, and I am therefore of the opinion that it is sufficient.

However, as the statute does not require the notice to be published any particular number of time there is no good reason why the county clerk may not now, as he has ample time to do so, republish the notice stating therein that the board will take action thereon at its regular meeting to be held on the first Monday in October, 1920, and it might be well for the county clerk to do so, although as I have said, I believe the notice as published to be sufficient to authorize the board of county commissioners to take action on the petition at its regular meeting to be held on the first Monday in October.

Truly yours,

S. C. FORD,

Attorney General.