

CLERK OF HANNIBAL COURT OF COMMON PLEAS:

Section 11812, Laws 1933, providing for appointment of deputies is applicable to Hannibal Court of Common Pleas.

5-2  
April 23, 1935.



Mr. Ed. H. Moore  
Clerk of Hannibal Court of Common Pleas  
Hannibal, Missouri.

Dear Sir:

This acknowledges receipt of your letter of recent date requesting an opinion from this office which reads as follows:

" What I would like to know it is that this being a Court of record, and the lawyers tell me that it is sixth in the State, as to volume of business and, I have had to pay the deputy for four years to the amt. of twenty five hundred dollars, and under the session acts of 1933 the court cut the salary five hundred dollars and want me to still pay the deputy and I just can not afford to do it, and no one person can do the work for you cannot be in two places at once I am giving nine to ten hours a day I don't mind the work but do not like to have the work not kept up which one person is not able to do, as I read the Statutes Courts of record are allowed deputy or deputies sufficient to keep the work up in good and efficient manner. Now if there is no way out I will have to let it drag. for the salary now is not sufficient. thanking you in advance for any help or information I remain."

This department, in an opinion recently rendered to Honorable Walter G. Stillwell, Prosecuting Attorney, Marion County, Hannibal, Missouri, under date of January 31, 1935, ruled that that part of Section 14563, R. S. Mo.

1929, which fixes the annual compensation of the Clerk of the Hannibal Court of Common Pleas at two thousand dollars has not been repealed by implication and still governs as to the compensation of the Clerk of the Hannibal Court of Common Pleas. A copy of said opinion is enclosed for your information.

Sections 14540 to 14563 inclusive of the Appendix of the Revised Statutes of Missouri, 1929, contains the law applicable to the Hannibal Court of Common Pleas. Section 14551, R. S. Mo. 1929, provides for the election of a Clerk of the Hannibal Court of Common Pleas, and Section 14563 provides what salary said clerk shall receive. No provision is made for appointing a deputy clerk of said court or allowing any compensation for a deputy clerk.

Section 11812, Laws of Missouri, 1933, page 371, provides:

"Every clerk of a circuit court shall be entitled to such number of deputies and assistants, to be appointed by such official, with the approval of the circuit court, as such court shall deem necessary for the prompt and proper discharge of the duties of his office. The circuit court, in its order permitting the clerk to appoint a deputy or assistant, shall fix the compensation of such deputy or assistant, and shall designate the period of time such deputy or assistant may be employed. Every such order shall be entered of record, and a certified copy thereof shall be filed in the office of the county clerk. The clerk of the circuit court may, at any time, discharge any deputy or assistant, and may regulate the time of his or her employment, and the circuit court may, at any time, modify or rescind its order permitting any appointment to be made, and may reduce the compensation theretofore fixed by it."

The above section refers specifically to every clerk of a Circuit Court and does not mention clerks of the Courts of Common Pleas. However, in this connection, we call your

attention to Section 656, R. S. Mo. 1929, which reads as follows:

"Whenever the term 'circuit Court' is used in any law general to the whole state, the same shall be construed to include 'courts of common pleas', unless such construction would be inconsistent with the evident intent of such law, or of some law specially applicable to courts of common pleas."

Section 11812, supra, is a law general to the whole State. In our opinion, to include the words "Courts of Common Pleas" in said section would not be inconsistent with the evident intent of the law or in conflict with any law especially applicable to the Hannibal Court of Common Pleas.

It is therefore the opinion of this department that Section 11812, Laws of Mo. 1933, is applicable to the Hannibal Court of Common Pleas, and that the Clerk of said court is entitled to such number of deputies and assistants to be appointed by said clerk with the approval of the county court as such court shall deem necessary for the prompt and proper discharge of the duties of his office.

This office, in an opinion given Honorable Birt P. Bryant, Clerk of the Circuit Court, Dunklin County, Missouri, under date of March 7, 1934, ruled that the County Court shall fix the compensation of the deputy circuit clerks and that the County Court shall pay such deputy from the general revenue fund of the county. We are enclosing a copy of said opinion, same having been signed by Franklin E. Reagan, Assistant Attorney-General and approved by Attorney-General, Roy McKittrick.

Very truly yours,

APPROVED:

J. E. TAYLOR  
Assistant Attorney-General.

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ROY MCKITTRICK  
Attorney-General.

JET/afj