

JUSTICES OF THE PEACE: Authority to appoint additional
justice under Section 2137, R. S.
Mo. 1929.

January 10, 1939



Mr. Conn Withers
Prosecuting Attorney
Clay County
Liberty, Missouri

Dear Sir:

This department wishes to acknowledge your request
for an opinion under date of January 5th as follows:

"The question has been raised before
the County Court on which I would
appreciate the opinion of your Depart-
ment namely:

The City of Avondale in Clay County,
Missouri, is incorporated as a fourth
class city and contains a population
of approximately 500 persons. Its
city limits, at the nearest point,
falls approximately two miles from
the office of the nearest Justice
of the Peace which is in North Kan-
sas City, Missouri. Both of said
cities lie in Gallatin Township, in
Clay County, Missouri, and their
city limits adjoin, although the
office of the Justice is on the
opposite side of North Kansas City.

The citizens of Avondale, claiming
the County Court has proper authority
under Section 2137, R. S. Mo. 1929
have asked the County Court to appoint
an additional Justice in the City of
Avondale. There are no other addition-
al Justices appointed in said Township.

Does the five mile rule in said Section

prevent the appointment of such additional Justice in said City of Avondale, all of which lies within five miles of the nearest Justice, or may such a Justice be appointed within such city irrespective of the five mile limitation?"

Section 2137, R. S. Mo. 1929 provides in part as follows:

"Whenever a petition shall be presented to the county court of any county in this state, signed by twelve or more qualified voters of any township in said county, setting forth that they live more than five miles from the nearest justice of the peace in their township, the county court shall have power to appoint an additional justice of the peace for such township, and the justice so appointed shall live in the immediate neighborhood of the petitioners, and at least five miles from any other justice of the peace of such township:"

In order for the county court to appoint an additional justice of the peace in Gallatin Township, the petition presented to the court must state that twelve or more qualified voters of said township live more than five miles from the nearest justice of the peace in their township. Inasmuch as you state that the voters of the City of Avondale in the Township of Gallatin live within five miles of the nearest justice of the peace, we are of the opinion that the county court would not be authorized to appoint

Mr. Conn Withers

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an additional justice for the City of Avondale.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney General

APPROVED:

J. E. TAYLOR
(Acting) Attorney General
MW:RT