

PROBATE JUDGE:
CLERK OF PROBATE
COURT:

Amount, approval and place of signed bond
of ex officio clerk.

December 28, 1942

12-30



Mr. Leo J. Clavin
Clerk Circuit Court
Chariton County
Keytesville, Missouri

Dear Sir:

This will acknowledge receipt of your letter of December 5, requesting our opinion concerning the bond of a Probate Judge.

Section 2440 R. S. Mo. 1939 covers completely, this subject. That section is as follows:

"The judge of probate is required to act ex officio as his own clerk, and give bond in like amount, with like conditions and penalties, to be approved by the judges of the county court, filed and recorded, the same as is required of clerks filling said office by appointment: Provided, that any judge of probate may, by an entry of record in said court, appoint a separate clerk, who shall be paid by said judge and shall hold his office at the pleasure of the judge. Said clerk shall take the oath required of other clerks of court in this state, and, before entering upon the duties of his office, shall enter into a bond to the state of Missouri, with two or more good and sufficient sureties, to be approved by the judge, in the sum of one thousand dollars, conditioned that he will faithfully discharge all the duties of his office; which bond shall be filed and recorded in the office of the county clerk of the county where such clerk of probate is to serve, upon which bond, when breach thereof is made, suit may be brought as upon other penal bonds. Said clerk, when so appointed and qualified, may discharge all the duties of clerk, and shall have power and authority to do

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and perform all acts and duties in vacation which the judge of said court is or may be authorized to perform in vacation, subject to the confirmation or rejection of said court at the next regular term held thereafter. All probate clerks and ex officio probate clerks now in office shall continue in office and discharge all the duties prescribed by law until the expiration of the term for which they were respectively elected, and during this term shall receive the same compensation now provided by law. Every clerk or ex officio clerk of probate failing or refusing in his receipts for fees to give an itemized account of each charge, with date, together under appropriate headings the number of section and chapter of statute authorizing such charge to be made, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred nor more than five hundred dollars."

Under this section, it is clear that when a Probate Judge acts ex officio as his own clerk, he is to give a bond in the sum of one thousand dollars to be approved by the judges of the county court and to be filed and recorded in the office of the county clerk of the county. This section applies to the probate courts in all counties and is applicable to Chariton County.

Respectfully submitted

LAWRENCE L. BRADLEY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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