

CIRCUIT CLERKS: Deputy Circuit Clerks in Shelby County
entitled to compensation fixed by County
Court within Statutory limitations.

January 14, 1936.

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Mr. Estel T. Hardy
Clerk of the Circuit Court
Shelby County
Shelbyville, Missouri

Dear Sir:

We acknowledge receipt of a request for an opinion
from your deputies, Mary C. Ralls and Thelma Hewitt.
Said request reads as follows:

"The Clerk of the Circuit Court and
Ex-Officio Recorder of Shelby County,
Missouri, requires two deputies in
order to carry on his office routine
properly. There has been difference
of opinion concerning the salary
allowed for deputy hire in this
office.

"We would like to have an opinion
on Section 11812, entitled 'The
Deputy or Assistant Circuit Clerk's
Compensation' to be found on page
371 in the Missouri Laws, 1933;
particularly the clause which reads
as follows:

" 'The County Court, in its order
permitting the clerk to appoint a
deputy or assistant, shall fix the
compensation of such deputy or
assistant which, in counties having
12,500 persons and less, shall not
exceed the amount allowed deputy
or assistant to the county clerk
for the actual time employed and
shall designate the period of time
such deputy or assistants may be
employed.'

"Does this mean that each deputy
may be allowed a compensation

amounting to \$1100 annually or does it mean that this amount shall be divided among the deputy hire.

"We trust that you may be able to send us an opinion on the aforementioned question at an early date."

Section 11808 Laws 1933, p. 370, reads as follows:

"The last previous decennial census of the United States shall be the basis for determining the population of any county in this state, for the purpose of ascertaining the salary of any county officer for any year, or the amount of fees he may retain, or the amount he shall be allowed to pay for deputies or assistants."

The population of Shelby County, according to the last decennial census was 11983. Section 11811 Laws 1933, p. 370 provides in part as follows:

"The aggregate amount of fees that any clerk of the County Court under Articles 2 and 3 of this Chapter shall be allowed to retain for any one year's service shall not in any case exceed the amount hereinafter set out. * * * *in counties having more than 11,500 persons and less than 12,500 persons, the clerks shall be allowed to retain \$1300.00 for themselves, and shall be allowed to pay for deputies and assistants \$1100.00;* * * *."

Section 11812, Laws 1933, p. 371 provides:

"Every clerk of a circuit court shall be entitled to such number of deputies and assistants, to be appointed by such officials, 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. The County Court, in its order permitting the clerk to appoint a deputy or assistant, shall fix the compensation of such deputy or assistant which, in counties having 12,500 persons and less, shall not exceed the amount allowed deputy or assistant to the county clerk for the actual time employed and shall designate the period of time such deputy or assistants 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 county court may, at any time, modify or rescind its order permitting and appointment to be made, and may reduce the compensation theretofore fixed by it."

Section 11680 R. S. Mo. 1929, provides:

"Every clerk may appoint one or more deputies, to be approved by the judge or judges, or a majority of them in vacation, or by the court, who shall be at least seventeen years of age and have all other qualifications of their principals and take the like oath, and may in the name of their principals perform the duties of clerk; but all clerks and their sureties shall be responsible for the conduct of their deputies."

CONCLUSION.

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Under Section 11811, supra, the County Clerk in counties the size of Shelby County, is allowed to retain

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from fees which he collects \$1300.00 for himself and \$1100.00 for deputies and assistants.

Under Section 11812, supra, the Legislature has limited the amount payable in the Circuit Clerk's office for deputy and clerk hire in counties of 12,500 persons and less. Shelby County falls within this class of counties. Said counties must limit clerk and deputy compensation not to exceed the amount allowed deputies and assistants to the county clerk of Shelby County. In other words, the County Court is limited to \$1100.00 expenditure per year for deputy and assistant hire in the Circuit Clerk's office in Shelby County, regardless of the number of such assistants.

Respectfully submitted.

WM. ORR SAWYERS
Assistant Attorney General.

APPROVED:

JOHN W. HOFFMAN, Jr.
(Acting) Attorney General.

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