

COUNTY COURT: Proceeds of sale of county farm should be returned to general revenue fund of the county.

Smith

September 28, 1945



Honorable A. L. Wright
Prosecuting Attorney
Stone County
Crane, Missouri

Dear Sir:

Receipt of your letter under the date of September 22, 1945, is hereby acknowledged. Your letter requesting the opinion of this office is as follows:

"The county court of Stone County is thinking of selling the county farm.

"If the farm is sold to what uses can this money be applied? It is their thought that it should go back into general revenue funds from which it was taken at the time of buying the farm several years ago. It occurs to me that the money could not be used except for the same purposes to-wit: the purchase of another farm."

Article VI, Section 7 of the new Constitution is as follows:

"In each county not framing and adopting its own charter or adopting an alternative form of county government, there shall be elected a county court of three members which shall manage all county business as proscribed by law, and keep an accurate record of its proceedings. The voters of any county may reduce the number of members to one or two as provided by law."

Section 2480, R. S. Mo. 1939, provides as follows:

"The said court shall have control and management of the property, real and personal, belonging to the county, and shall have power and authority to purchase, lease or receive by donation any property, real or personal, for the use and benefit of the county; to sell and cause to be conveyed any real estate, goods or chattels belonging to the county, appropriating the proceeds of such sale to the use of the same, and to audit and settle all demands against the county."

By these provisions of the newly adopted Constitution and the statute it would seem that the county court would be authorized to return the proceeds of the sale of the county farm to the general revenue fund if there are no other provisions of the law denying such right.

In the case of *Bayless v. Gibbs*, 251 Mo. 492, the powers of the county were discussed and the court said:

"County courts are not the general agents of the counties of the State. They are courts of limited jurisdictions, with powers well defined and limited by the laws of the State; and as has been well said, the statutes of the State constitute their warrant of authority, and when they act outside of and beyond their statutory authority, their acts are null and void."

Also, in the case of *State ex rel. Major v. Patterson*, 229 Mo. 375, the court said:

"Under the Constitution, Article VI, Section 36, providing that a county court shall have jurisdiction to transact all county business as may be prescribed by law, the county courts are denied any rights except those expressly conferred."

The same power to transact business as granted by Article VI, Section 36, Constitution of 1875, is also granted under the new

Constitution of 1945 in Article VI, Section 7.

In *Blades v. Hawkins*, 240 Mo. 187, the court held that county courts are given incidental powers. The court said:

"While the law is strict in limiting the authority of these courts, it never has been held that they have no authority except what the statutes confer in so many words. The universal doctrine is that certain incidental powers germane to the authority and duties expressly delegated, and indispensable to their performance, may be exercised."

While it may be that a fund raised for a specific purpose cannot be used for any other purpose, even a surplus thereby created goes into the general fund, as is found in *Avera v. Clyatt*, 109 S. E. 655, 152 Ga. 280, which states:

"While public funds of the county raised by taxation for specific purposes cannot be used for other purposes, when there remains a surplus after all property demands and indebtedness have been paid or deducted, it becomes the general fund, and may be lawfully applied to any legitimate liability of the county."

It is assumed that the county farm that you refer to came into being under the power of the county to provide a home for the poor under statutes conveying the same or similar power as Section 9596, R. S. Mo. 1939, which states:

"The several county courts shall have power, whenever they may think it expedient, to purchase or lease, or may purchase and lease, any quantity of land in their respective counties, not exceeding three hundred and twenty acres, and receive a conveyance to their county for the same."

And Section 9597, R. S. Mo. 1939, which provides:

"Such county court may cause to be erected on the land so purchased or leased a convenient poorhouse or houses, and cause other necessary labor to be done, and repairs and improvements made, and may appropriate from the revenues of their respective counties such sums as will be sufficient to pay the purchase money in one or more payments to improve the same, and to defray the necessary expenses."

After a rather thorough search of the authorities and cases we find no law which requires the county court to dispose of money received for the sale of the county farm in any other method than to return said moneys to the general revenue fund of the county.

Conclusion

From the foregoing it is the opinion of this office that, should the county court of Stone County sell the county farm, the money received from the sale thereof should be returned to the general revenue fund of the county.

Respectfully submitted,

J. MARTIN ANDERSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

JMA:EG