

County Farm Bureau: County Court cannot make appropriation for Agricultural Extension Service for two years instead of three as set forth in statutes.

12-21

December 20, 1935.

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Mr. J.W. Crouch, President,  
Clinton County Farm Bureau,  
Lathrop, Missouri.

Dear Sir:

This department is in receipt of your letter of December 16 wherein you make the following inquiry:

"As President of the Clinton County Farm Bureau, I accompanied a committee which petitioned the Honorable County Court of Clinton County, for an appropriation for the support of the Agricultural Extension Service as authorized by Section 12135 to 12142, Revised Statutes of Missouri, 1919.

"In accordance with said statutes mentioned above, the committee asked for a three year appropriation. The Court informed the committee that it would be willing to grant a two year appropriation but not a three year appropriation.

"The committee was requested by the Court to determine whether or not it would be within the jurisdiction of the court to appropriate for a period of two years instead of three years as set forth in the above mentioned statutes. \* \* \* \* "

Section 12616, R.S. Mo. 1929 empowers the County Court to appropriate money for the support of county farm organizations, and is as follows:

"For the purpose of promoting the public welfare by assisting in the general betterment of farm and home practices and conditions, the county court of any county is hereby authorized and empowered to appropriate out of the general funds of the county such sums as it may deem proper for the support of county farm organizations and to pay out such moneys under the conditions hereinafter specified."

Section 12618, R.S. Mo. 1929 specifies the objects for which the county farm bureau may be organized and Section 12619, R.S. Mo. 1929 directs the expenditure of the funds. Section 12623, R.S. Mo. 1929 states the length of time for which appropriations may be made and provides as follows:

"County courts appropriating funds under this article shall make such appropriation for a period of not less than three years nor more than four. Any county court may, on petition or on its own initiative, appropriate funds in support of a county farm bureau prior to the final completion of the bureau organization, but no money shall be paid out until the county farm bureau shall have met the conditions set forth in section 12619 of this article."

In the above section you will note that the County Court appropriating funds shall make such appropriations for a period of not less than three years nor more than four years. We can offer no logical reason why the Legislature should see fit to compel the County Court to make the appropriation for a period of three years unless it is that a county farm bureau, to obtain effective results must be organized at least for three years.

The question arises, is the word "shall" as used in the section mandatory or directory. In the case of Vale v. Messenger, 184 I. 553, the Court said:

"The word 'shall' in a statute is presumed to be used in a mandatory sense."

In the case of Foley v. City of Orange, 103 N.J.A. 743, the Court said:

"In a statute prescribing the exercise of the powers of municipal government, the word 'shall' is imperative and imports absolute obligation, unless a different meaning is conclusively required by the context."

In the case of McDunn v. Roundy, 191 I. 976, the Court said:

"The word 'shall', when addressed to public officials, is mandatory."

#### CONCLUSION

In view of the foregoing, it is the opinion of this department that by using the word "shall" in Section 12623, supra, the Legislature made it mandatory for the county courts of this state, in the event county farm organizations are formed, to appropriate for a period of not less than three years; hence, the County Court of Clinton County cannot make an appropriation for two years instead of three.

Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General.

APPROVED:

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