

COUNTIES: County Court can appropriate \$3,000 for the establishment of State Employment Bureau in St. Louis County for the purpose of establishing employment in connection with the rules and regulations of the Federal Relief Administration, Washington, D. C., said appropriation being for the purpose of indirectly relieving the county from maintaining and relieving the indigent poor as it is compelled to do under Sections 12961 and 12950, R. S. Mo. 1929.

July 23, 1936.

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Mrs. Mary Edna Cruzen,
Director, Missouri State Employment Service,
Jefferson City, Missouri.



Dear Mrs. Cruzen:

This department is in receipt of your letter of July 21st wherein it is requested that the opinion rendered on March 4, 1936, to Honorable John E. Mooney, County Counselor, Clayton, Missouri, be reconsidered from the angle which you present in your letter. Your letter is as follows:

"The Missouri State Employment Service will be unable to take care of registration of relief applicants unemployed after December at Clayton, due to failure of St. Louis County to make an appropriation for the maintenance of the employment service. A ruling was issued by your office last March, indicating that the County did not have power to appropriate such funds.

"Since the date of your ruling, a new condition has presented itself. Due to regulation issued in Washington, some provision must be had for proper registration of these relief and non-relief applicants. Federal projects will not give them employment unless they are registered at the employment office. If they are not assigned through the Missouri State Employment Service in Clayton, they must be given relief by the County.

"The attached memorandum makes the situation clear. I respectfully request that, due to these changed conditions, the opinion of March 4, 1936, be withdrawn, and that St. Louis County be permitted to make the needed payment."

July 23, 1936.

Referring to the opinion of March 4th to Mr. Mooney, the question submitted was as follows:

"I have been instructed by the county court to ask you for an opinion in the legality of issuing a county warrant in the sum of three thousand dollars made payable to the State Employment Bureau for the purpose of maintaining the bureau."

As an abstract proposition of law, we held in the opinion to Mr. Mooney that a warrant could not be issued in the sum of \$3,000 to the State Employment Bureau for the reason that the County Court was without statutory authority, either express or implied. What we said in that opinion, we think, was the correct conclusion of the law. However, your letter presents the matter on an entirely different theory for the appropriation.

You state in your letter that since the date of our ruling, a new condition has presented itself. Due to regulation issued in Washington, some provision must be had for proper registration of these relief and non-relief applicants, and we shall treat the same from the angle that the proposed \$3,000 is for the relief of the poor of St. Louis County.

Our present view of the matter, if we correctly interpret the trend of your letter, is that the County Court of St. Louis County, by appropriating the \$3,000 and enabling the county to comply with the provisions or regulations from Washington, will avoid and relieve itself of aid to the poor, which otherwise it would be compelled under the statutes to make provision for the indigent poor and those unable to care for themselves.

Pursuing the matter further from this angle, it is the duty of the County Court to provide for the support of the poor. Section 12961, R. S. Mo. 1929:

"The several county courts shall set apart from the revenues of the counties such sums for the annual support of the poor as shall seem reasonable, which sums the county treasurers shall keep separate from other funds, and pay the same out on the warrants of their county courts."

Likewise Section 12950, R. S. Mo. 1929, which is as follows:

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

The power and authority of a county to care for its poor caused by the depression has received a liberal attitude by the Supreme Court of the State of Missouri. In the very recent case of State of Missouri ex rel. Gilpin, et al., Judges of the County Court of Buchanan County vs. Forrest Smith, State Auditor, No. 35,095 (not yet published), the court held that it was legal for the County of Buchanan to authorize the issuance of \$300,000 in bonds, said bonds to be known as Poor Relief Bonds. The court further held that under Section 12 of Article 10 of the Constitution of Missouri, a county may issue bonds without express statutory authority, provided that the bonds are issued only for county public purposes, and that the Poor Relief Bonds in question were issued for that purpose, provided that two-thirds of the voters of the county assent to such a proposition. In discussing the county's duty to support and relieve the poor, Judge Tipton says:

"We are of the opinion that it is the duty of a county to support the poor who are within its boundaries. Section 12950, R. S. Mo. 1929, is as follows:

"'Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants.'

"'An examination of the Revised Statutes of Missouri 1929 clearly shows that poor relief is a "public purpose" and a governmental duty because by sections 12950 and 12952 (Mo. St. Ann. secs. 12950, 12952) counties are authorized to spend money in support of the poor; by section 9986 (Mo. St. Ann. Sec. 9986) a county pauper fund is provided; by section 12058 and 13942 (Mo. St. Ann. secs. 12058, 13942) county poor houses and county hospitals are maintained; section 9697 (Mo. St. Ann. sec. 9697) gives authority to educate poor children that are blind or deaf; section 12961 (Mo. St. Ann. sec. 12961) directs the county court to set aside, out of its annual revenues, a definite sum for the support of the poor; article 1, chapter 90, creates a state board of charities and defines its functions; section 12930 (Mo. St. Ann. sec. 12930) requires this board to supervise public relief to the poor;'....

"The good of society demands that when a person "is without means, and unable, on account of some bodily or mental infirmity, or other unavoidable cause, to earn a livelihood" he is entitled to be supported at the expense of the public. "It is immaterial how the alleged pauper is brought into need, as it is the fact of the situation and not the method of producing it that is important." "So the fact that a person's want is the result of a gross intemperance does not prevent him from securing relief as a pauper." "An able-bodied man, who can, if he chooses obtain employment which will enable him to maintain himself and family, but refuses to accept employment, is not entitled to public relief, though relief may be properly extended to the wives and children of such men." 21 R. C. L. 705, 706. It necessarily follows that an able-bodied man, who is unable to obtain employment on account of the economic conditions existing at the time, and who is without means of support, is entitled to public relief.' (Jennings v. City of St. Louis, 332 Mo. 173, 58 S. W. (2d) 981.)

"We think that these bonds, which provide for the care of the poor of Buchanan County, are for a county public purpose."

CONCLUSION

Bearing in mind that the proposed warrant of \$3,000 is for the purpose of complying with the rules and regulations promulgated by Washington, D. C., in order that the county may be relieved of supporting many persons who if not given employment under the Federal Emergency Relief Administration, the relief, maintenance and support of such persons will fall by statute on the county itself, we are of the opinion that the proposed \$3,000 is for a county public purpose, and that the

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same constitutes indirectly sums set apart from the revenues of such county for the annual support of the poor as shall seem reasonable, and that the same constitutes the carrying out of the duty of the County Court in Section 12950 for the relief, maintenance and support of poor persons by a county of which they are inhabitants.

Respectfully submitted,

OLLIVER W. NOLEN,
Assistant Attorney General.

APPROVED:

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

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