

COUNTY COURT: Cannot appropriate funds for a county farm organization when the same does not legally exist.

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February 7, 1936



Honorable Henry B. Hunt  
Prosecuting Attorney  
Atchison County  
Rock Port, Missouri

Dear Sir:

This department is in receipt of your letter of February 3, 1936, wherein you make the following inquiry:

"The County Court of Atchison County, Missouri, has requested me to ask for an opinion from you upon the following matter of inquiry:

"Atchison County does not have any farm organization composed of ' . . . not less than 250 bona fide farmers. . . .' as contemplated by Sections 12616 and 12617, R. S. Missouri, 1929.

"In view of said fact, can the County Court of said Atchison County, as an 'Emergency Measure,' make the appropriation to carry out the provisions of the Smith-Lever act of congress under Article 17, Chapter 87, Revised Statutes of Missouri, 1929?

"We have been informed that there are about 68 counties in this state that are making such appropriations, without having farm organizations as contemplated by said sections.

"The said County Court is now in regular session, but, in order to have your opinion in the premises, it will adjourn over for a week in order to give you time to consider this query. We know you are swamped with requests for opinions, but if you can give this request your immediate attention, it will be much appreciated by said Court.

"Thanking you in the premises, I am."

Section 12616, Revised Statutes Missouri 1929, gives the county court power to appropriate for county farm organizations, 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 12617 refers to the organization and qualifications of the county organization, and is as follows:

"A county farm organization is hereby defined as a county organization, willing to co-operate with the university of Missouri college of agriculture in carrying out the provisions of the Smith-Lever act of congress approved May 8, 1914, composed of not less than 250 bona fide farmers, farm women or tenants, with an annual membership fee of not less than fifty cents per member fully

paid up, its constitution and by-laws formally adopted and its officers elected and installed. Provided, that for the purposes of carrying out the provisions of the Smith-Lever act the term 'farm bureau' whenever used in this article shall be deemed and construed to mean any county farm organization."

This question has never been tested before any court. The county farm bureaus and organizations and the constitutionality of the same are discussed in the case of Jasper County Farm Bureau v. Jasper County 286 S. W. 381. In approaching the constitutionality of the act, the court traces the different steps in the organization in the following language: (382)

"The act further provides that whenever a county farm bureau has been organized with the required number of members, with its membership dues fully paid up, its constitution and by-laws adopted, and its officers elected and installed, the county court shall be empowered and authorized to appropriate out of the general funds of the county such sums as the court may deem proper for the support of such organization."

You state in your letter that no bona fide county farm organizations exist. Evidently, no organization has attempted to comply with Section 12617, quoted supra, therefore, we conclude no legal county farm organization, nor in fact does a de facto organization of any kind, exist.

Section 12619 states that the funds shall be appropriated for the payment of salaries and necessary expenses of men and women connected with the organization. The question will arise as to whom should receive any appropriation that the county court might make and who would be legally entitled to disburse the funds. Further, Section 12623 contemplates that the county court shall only make appropriations for a period of not less than three years nor more than four years. This alone, we think, would preclude any appropriation

by the county court. Finally, the question resolves itself into whether or not the county court can make a donation or voluntary contribution to an association or group with no legal entity or being? County courts are created by statute, their duties are purely statutory.

It was said in the case of Bayless v. Gibbs 251 Mo. 492,

"County courts are not the general agents of the counties of the State. They are courts of limited jurisdiction, 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. 373,

"Under the constitution, Article 6, Section 36, providing that a county court shall have jurisdiction to transact all county business and such other business as may be prescribed by law, county courts are denied any rights except those expressly conferred."

In the Case of Blades v. Hawkins 240 Mo. 187, county courts are given incidental powers in the following language:

"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."

Honorable Henry B. Hunt

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CONCLUSION

For the reason and logic assigned in the foregoing opinion, we come to the conclusion that a county court can not legally appropriate funds for a county farm bureau organization which does not exist in law, as provided in Sections 12616 to 12623, inclusive, nor do we find any implied powers in any of the statutory provisions relating to duties of a county court to make such an appropriation.

Yours very truly,,

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

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ROY McKITTRICK  
Attorney General

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