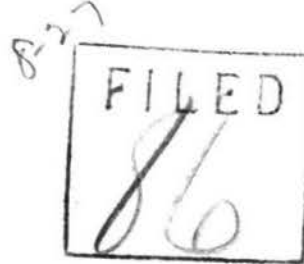


COURT HOUSES: County court has control over court houses
and their use rather than sheriff.

August 26, 1938

Hon. Walter G. Stillwell
Prosecuting Attorney
Marion County
Hannibal, Missouri



Dear Sir:

We acknowledge receipt of your opinion request
which reads as follows:

"For many years it has been customary for different organizations to use the Court room of the Hannibal Court of Common Pleas in the evenings for holding meetings and it has also been used by both political parties for political meetings and speakers.

The question arises as to whether the Sheriff or the County Court has the right to permit the use of this facility to such organizations."

While your letter does not so state, yet we have ascertained from outside information that the Hannibal Court of Common Pleas is held in a room of a court house owned by Marion County.

Article VI, Section 36, Constitution of Missouri, provides in part as follows:

"In each county there shall be a county court, which shall be a court of record, and shall have jurisdiction to transact all county and such other business as may be prescribed by law."

Pursuant to the foregoing constitutional provision, the Legislature has passed the following statutes:

"Sec. 2078. Shall control county property.---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."

"Sec. 12071. Court may alter and repair county buildings, when.---The county court of each county shall have power, from time to time, to alter, repair or build any county buildings, which have been or may hereafter be erected, as circumstances may require, and the funds of the county may admit; and they shall, moreover, take such measures as shall be necessary to preserve all buildings and property of their county from waste or damage."

It seems the foregoing statutes clearly lodge in the county court the control and management of the court house since it is part of the property belonging to the county.

In the early case of Sparks v. Purdy, 11 Mo. 220, the Supreme Court in passing on the right of the county court to summarily eject trespassers from the court house said:

"The law intrusts the County Court with the control and management of the property, real and personal of the county; and under this power the court superintends the public buildings."

If the county court is charged by law (Section 12071) with the duty of taking such measures as shall be

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necessary to preserve the buildings and property of their county from waste or damage, it follows they would have the right to say who might use the property and for what purposes it might be used. We find nothing in the law which directs or authorizes the sheriff to have control of the court room wherein court is held.

CONCLUSION

It is, therefore, the opinion of this office that the county court of Marion County has the right to control and manage the court room of the Hannibal Court of Common Pleas so far as permitting use of such room for political gatherings or for other purposes outside of its use by the Court of Common Pleas.

Respectfully submitted,

HARRY H. KAY
Assistant Attorney General

APPROVED By:

J.E. TAYLOR
(Acting) Attorney General

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