

COUNTY COURTS: Right to make donations to individuals and associations.

July 12, 1939

7-13



Mr. G. Derk Green
Prosecuting Attorney
Linn County
Marceline, Missouri

Dear Sir:

We acknowledge receipt of your request of July 7, 1939, for an opinion in regard to the right of the county court to make donations to various organizations for livestock shows and agricultural exhibits.

The Constitution of Missouri in Section 46, Article IV, prohibits the grant of public money for private purposes in the following language:

"The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: Provided, That this shall not be so construed as to prevent the grant of aid in a case of public calamity."

Section 47, Article IV, provides in part as follows:

"The General Assembly shall have no power to authorize any county, city, town or township, or other political corporation or subdivision of the State now existing, or that may be hereafter established, to lend its credit, or to grant public money

or thing of value in aid of or to any individual, association or corporation whatsoever, or to become a stockholder in such corporation, association or company: * * * "

These sections undoubtedly prohibit the appropriation on the part of the county court to any individuals, associations or corporations, regardless of their classification, so long as the enterprises in which they are engaged are private.

Section 7, Article II of the Constitution provides that no money shall ever be taken from the public treasury in aid of any church, sect or denomination of religion, or any minister or teacher thereof as such.

The statutes make two exceptions which are found in Article VIII, Chapter 87 relating to county agricultural and mechanical societies, and Article XVII, Chapter 87, regarding county farm bureaus and organizations. Section 12490, under the first Article above named, reads as follows:

"The county court of any county in which there shall be a regularly organized county agricultural and mechanical society, county fair, county corn growers' association, county poultry association, county stock growers' association, or any other organization or incorporated society having for its object the holding of county fairs or the advancement of agriculture or its allied industries may, if it be deemed expedient, appropriate out of the county treasury for the benefit of any such society a sum not exceeding three hundred dollars in any one year; and the money so appropriated shall be drawn

by the treasurer of the society on proper warrant: Provided, said money shall be awarded by the board of directors or other proper officials in premiums or expended by them in the purchase of premiums, to be known as 'the _____ county court premiums,' to be awarded according to the rules, regulations and by-laws of the society: Provided further, that in all counties in this state having seventy thousand inhabitants or more, the county court of such county may, if it be deemed expedient, appropriate out of the county treasury, for the benefit of any such society, a sum not exceeding one thousand dollars, to be used as in this section above set out, or in any other manner that said board of directors may deem best."

Section 12617, under the second Article above, defines a county farm organization and Section 12616 provides that county courts may appropriate money for the support of the organizations defined in the following section, the funds to be used, however, as provided in Section 12619, which is as follows:

"For the purpose of carrying out the provisions of this article, all funds appropriated by any county court to a county farm bureau shall be used to pay the salaries and necessary expenses of men and women, either or both, trained in agriculture and home economics, respectively, to serve as county agricultural agents, county home demonstration agents and county boys' and girls' club agents, and to provide such clerical assistance and office equipment as may be necessary to the effective conduct, through these agents, of such educational activities as are specifically authorized by state and federal legislation providing for

July 12, 1939

co-operative extension work in agriculture and home economics as defined by the Smith-Lever act of congress."

Under the first section above, it must be noted that the money appropriated by the county court can be used as the premiums or for the purchase of premiums only, and must be given in the name of the county court. For the enlargement or continuance of county fairs, Section 12508, as amended by Laws of 1931, at page 133, provides for the levy of a special tax for the payment of premiums. We are unable to find any further sections giving the county court the right to contribute to the organizations set out in your letter.

In the case of Bayless vs. Gibbs 251 Mo. 492, the Supreme Court said:

"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."

We conclude, therefore, that a county court can legally appropriate funds for the purposes mentioned in Section 12490, which must be used for the payment of premiums only, and as provided in Section 12619, and that any contributions to any other individuals, association, corporations or enterprises of any nature are prohibited.

Respectfully submitted,

APPROVED:

ROBERT L. HYDER
Assistant Attorney General

J. L. TAYLOR
(Acting) Attorney General
RLH:RT