

COUNTY JAIL:

The Morgan County jail must be maintained within the corporate limits of the county seat of justice, Versailles. A part of the Morgan county home can not be maintained or used as the county jail, because it is outside the corporate limits of the Morgan county seat of justice, Versailles.

November 29, 1939

Mr. G. Logan Marr  
Prosecuting Attorney  
Morgan County  
Versailles, Missouri



Dear Sir:

Your request for our opinion by your letter dated November 3, 1939, in the following terms, was received:

"I am asking for an opinion as to whether the county court can remodel and rebuild a part of the county home belonging to Morgan County, with the said county home situated outside the city limits of the city of Versailles, and  $1\frac{1}{2}$  miles from the city limits of said county seat, into a jail for Morgan County, Mo? Does this jail have to be built in the county seat of Morgan County, Mo., within the city limits?"

Your letter dated November 25, 1939, with enclosure, was also received, and it in part states:

"Section 12061 has been called to the attention of the court. All the court is trying to do is to alter and repair an old building, a building that they own, although the said building is outside the city limits of the city of Versailles, the county seat or the seat of justice. It would seem that section 12061 would apply if the county was build-

ing a new building and did not have any land in the city limits?"

Your letter dated November 28, 1939, was also received.

Section 12043, R. S. Mo. 1929, Mo. Stat. Ann. page 6406, provides:

"There shall be erected and maintained in each county, at the established seat of justice thereof, a good and sufficient courthouse and jail."

The above quoted Section 12043 plainly requires that the jail of Morgan County be maintained within the corporate limits of its seat of justice, which is the county seat, Versailles.

Regarding the powers of the county court concerning county buildings, the Supreme Court, in Wolcott v. Lawrence County, 26 Mo. 272, 1.c. 275, 276, said:

"It can not act like general agents, whose acts may bind their principals if performed within the general scope of their agency, though in violation of private instructions unknown to those who deal with them; for it has no power over the subject except such as is given by law; and every person who deals with the county court, acting in behalf of the county, is bound to know the law that confers the authority. There is no difference in this respect between public and private agents; and if the county court exceeds its special and limited authority, conferred by the statute, in a material matter, the county will not be bound."

Because of the foregoing authority, a building outside of

the said seat of justice legally could not be used as the county jail, although the county does have authority under Section 12071, R. S. Mo. 1929, Mo. Stat. Ann. page 6416 to alter and repair county buildings.

Section 12058 R. S. Mo. 1929, Mo. Stat. Ann. page 6410, in part provides:

"The county court of any county in this state shall have power to acquire by purchase, for such county, improved or unimproved real estate for a site for a courthouse, jail or poorhouse or infirmary; \* \* \* ."

Section 12061 R. S. Mo. 1929, Mo. Stat. Ann. page 6411, in part provides:

"If there is no suitable ground for that purpose belonging to said county within the limits of the original town known as the established seat of justice, the superintendent shall select a proper piece of ground anywhere within the corporate limits of the town known as the county seat, \* \* \* ."

We believe that said Sections 12058 and 12061 are applicable to the acquisition of county property and not to the repair thereof.

With reference to your letter of November 28, 1939, we agree with you that other than at the county seat of justice, the only place where a county jail legally can be maintained is at "such other towns or sites where circuit court is held according to law," within the meaning of Section 12045, R. S. Mo. 1929, Mo. Stat. Ann. page 6407, and *Sheidley v. Lynch* 95 Mo. 487.

CONCLUSION

The Morgan County jail must be maintained within the corporate limits of the county seat of justice, Versailles. A part of the Morgan county home can not be maintained or used as the county jail, because it is outside the corporate limits of the Morgan county seat of justice, Versailles.

Respectfully submitted,

LAWRENCE L. BRADLEY  
Assistant Attorney General

APPROVED:

W. J. BURKE  
(Acting) Attorney General  
EH:RT