

COUNTY BUDGET
LAW:

County Court cannot purchase
supplies for Probate office
unless there is a surplus in
class five or six.

March 16, 1942

Honorable H. C. Meade
Probate Judge
Eminence, Missouri

Dear Sir:

This department is in receipt of
your letter of March 9, 1942, in which you
make the following request:

"I am writing you for an opinion, I
made out in my budget for supplies
as Probate Judge for this year, and
included in that budget for a Probate
Court Record, as I have only four
and one half sheets of Probate Court
Record, and the County Court cut my
budget down to \$25.00 for expense
for my office for this year, and I
wont have any record book to write
my records on.

I would like to have an opinion form
you on this matter."

The question which you here present
is whether or not the County Court may purchase
supplies for your office after the estimated
budget for that purpose has been exhausted.
In the first instance, article 10, section 12,
of the Constitution of Missouri is a direct
prohibition against, in effect, spending more
money than received by the county, or can be
reasonably or honestly anticipated as revenue.
The first of said section reads as follows:

"No county, city, town, township,
school district or other political
corporation or subdivision of the
State shall be allowed to become in-
debted in any manner or for any pur-
pose to an amount exceeding in any



year the income and revenue provided for such year, without the consent of two-thirds of the voters thereof * * * * *

The County Budget Law of 1941, after setting out classes 1, 2 and 3, provides as follows:

"Class 4. The county court shall next set aside the amount required to pay the salaries of all county officers where the same is by law made payable out of the ordinary revenue of the county, together with the estimated amount necessary for the conduct of the offices of such officers, including stamps, stationery, blanks and other office supplies as are authorized by law. Only supplies for current office use and of an expendable nature shall be included in this class. Furniture, office machines and equipment of whatever kind shall be listed under class six.

"Class 5. The county court shall next set aside a fund for the contingent and emergency expense of the county, the court may transfer any surplus funds from classes 1,2,3,4 to class 5 to be used as contingent and emergency expense. From this class the county court may pay contingent and incidental expenses and expense of paupers not otherwise classified. No payment shall be allowed from the funds in this class for any personal service, (whether salary, fees, wages or any other emoluments of any kind whatever) estimated for in preceding classes

"Class 6. After having provided for the five classes of expenses hereto-

fore specified, the county court may expend any balance for lawful purpose: Provided, however, that the county court shall not incur any expense under class six unless there is actually on hand in cash funds sufficient to pay all claims provided for in preceding classes together with any expense incurred under class six: Provided, that if there be outstanding warrants constituting legal obligations such warrants shall first be paid before any expenditure is authorized under class 6."

In the case of Missouri-Kansas Chemical Corporation v. New Madrid County reported in 139 S. W. 2d 457, being a case where the sheriff bought supplies in excess of the budget allowance, the court said as follows:

"* #New Madrid county has less than 50,000 inhabitants. It is admitted of record that the budget of New Madrid county for 1934, 1935 and 1936 for the purchase of disinfectant, etc. for the county jail, with the exception of the \$200 paid on account, had been exhausted at the time the several respective purchases here involved were made and that the balance sued for consists of items purchased in excess of the budget allowances therefor in the respective years. Plaintiff's representative testified he had been informed the budget "was low," and, as we read the record, some statements were dated as of the year following the actual delivery of the supplies. On the record made any order of the county court seeking to effect the payment of the balance due, under the quoted provision of Sec. 8, supra, would be void and of no binding force and effect. Now, absent exceptional cir-

cumstances, a sheriff's authority to obligate his county is restricted to his budget allowances. The directed verdict for the county was proper."

In the case of Gill v. Buchanan County reported in 142 S. W. 2d 665 the court said as follows:

"* * *This court has held that the purpose of the County Budget Law was 'to compel * * * county courts to comply with the constitutional provision, section 12, art. 10' by providing 'ways and means for a county to record the obligations incurred and thereby enable it to keep the expenditures within the income.' Traub v. Buchanan County, 341 Mo. 727, 108 S. W. 2d 340, 342.

"To properly accomplish that purpose, mandatory obligations imposed by the Legislature and other essential charges should be first budgeted, and then any balance may be appropriated for other purposes as to which there is discretionary power.* * *"

CONCLUSION

In view of the foregoing, we are of the opinion that the county court would not be authorized to exceed the estimated budget in or-

Hon. H. C. Meade

-5- -5-

March 16, 1942

der to purchase a record book for your office unless there is a surplus in either class five or six.

Respectfully submitted,

LAWRENCE L. BRADLEY
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

GW:FS