

COUNTY COURTS: County court is not authorized to subject funds of county to risks incident to trade or commerce.



April 9, 1953

Honorable Haskell Holman  
State Auditor  
State of Missouri  
Jefferson City, Missouri

Dear Mr. Holman:

A request for an official opinion of this office from Mr. W. H. Holmes, former State Auditor, reads as follows:

"Does the County Court in a third class county have statutory authority to enter into a contract with a second party to purchase cattle, whereby the County Court is to pay for one-half of the cost of the cattle from county funds. The cattle are to be placed on the county farm and the county to share in the profits."

It appears from the wording of this request that the "second party" referred to is an individual and not a state, municipality or political subdivision, or the United States, as contemplated in the wording of Section 16 of Article VI, Missouri Constitution of 1945, and it is with this assumption in mind that this opinion is written.

The cases of Reardon vs. St. Louis County, 36 Mo. 555, and Alderson vs. St. Charles County, 6 Mo. App. 420, and an unbroken chain of cases since those decisions have held that the powers of the county court are derived from the state government and may appropriate the money of the county to certain objects because it has express power given to it by the state government to do so; conversely, the county court has no authority to enter into a contract and appropriate money as here contemplated unless expressly authorized to do so by the state government.

The several county courts are authorized by statute to purchase or lease land not exceeding 320 acres and cause to be erected thereon a convenient poorhouse or houses, with certain implementing provisions and limitations (Secs. 205.640 and 205.650, RSMo 1949). The county court by Section 205.660, RSMo 1949, is given the following power:

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"The county court shall have power to make all necessary and proper orders and rules for the support and government of the poor kept at such poorhouse, and for supplying them with the necessary raw materials to be converted by their labor into articles of use, and for the disposing of the products of such labor and applying the proceeds thereof to the support of the institution."

This section gives the county court broad powers pertaining to the affairs of said poorhouse; however, nothing is said therein about permitting the county court to enter into a business arrangement for the joint ownership of cattle or other property by said county and an individual. The Constitution for Missouri of 1945, Article VI, section 16, specifically authorizes any municipality or political subdivision of this state to contract and cooperate with other governmental units "for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the manner provided by law." No provision exists which would specifically authorize this type of contract and cooperation between a county court in a third class county and an individual.

Section 205.720, RSMo 1949, contemplates that stock shall be owned by the county on said poor farm by requiring that book accounts shall be kept thereon by the superintendent thereof. Section 205.760, RSMo 1949, forseees the renting or leasing of the poor farm to said superintendent and permitting him to stock it and furnish the necessary farm implements and operate it at his own expense. But no specific provision is found authorizing such action by the county court of a third class county as is contemplated by your request.

#### CONCLUSION.

It is the opinion of this office that the county court in a third class county does not have statutory authority to enter into a contract with a second party to purchase cattle to be placed on the county farm, whereby the county court is to pay for one-half of the cost of the cattle and the county is to share in the profits.

This opinion, which I hereby approve, was prepared by my Assistant, Mr. J. Robert Tull.

Yours very truly,

JOHN M. DALTON  
Attorney General