

June 17, 1971

OPINION LETTER NO. 318  
Answer by Letter-Klaffenbach

Honorable Wm. S. Brandom  
Prosecuting Attorney  
Clay County  
Liberty, Missouri 64068



Dear Mr. Brandom:

This letter is in answer to an opinion request by your Staff Attorney, Mr. P. Wayne Kuhlman, in which Mr. Kuhlman forwards several questions posed by the Clay County Court. The questions paraphrased are whether the Clay County Court can erect buildings and establish various administrative offices of the Clay County government as well as a Juvenile Detention Unit and a Juvenile Circuit Court room in an area outside the county seat of Liberty, Missouri.

Clay County is a second class county and as has been indicated the county seat is Liberty, Missouri.

In our Opinion No. 38, dated January 11, 1954, to the Honorable James P. Hawkins, copy enclosed, this office held that the county court of Dallas County may by proper order designate some building within the seat of justice of Dallas County other than the court house as a place to hold circuit court. We believe that the holding in that opinion applies here also in that although Section 478.225, RSMo 1969, with respect to Circuit No. 7, "Terms of Court" refers only to the county of Clay and does not designate a particular location, it is nevertheless, in the absence of any express provision to the contrary, implicit that the circuit court will be held at the county seat. Section 478.385, RSMo 1969, provides that Circuit No. 7 is composed of three divisions. However, the legislature has not provided that said divisions will be at any other location than the county seat. We find no express provision in the statutes or any provision necessarily implied giving the county court the authority to establish the circuit court or any division thereof outside of the limits of the county seat of said county.

Notably the legislature has expressly provided in various Sections, 478.205, RSMo 1969, et seq, with respect to certain circuits that circuit court will be held in cities which are not county seats.

Honorable Wm. S. Brandom

Under Section 211.331, RSMo 1969, county courts of first and second class counties have the duty to provide a place of detention for children coming within the provisions of Chapter 211. There is no express requirement that such detention facilities be located at the county seat. We are of the view that such detention facilities need not be located at the county seat but must be so located as to meet the needs of justice and the administration of the juvenile courts.

Your question also indicates that the county court desires to remove and establish certain county administrative facilities outside of the "seat of justice".

Section 49.310, RSMo 1969, provides that with some exceptions not pertinent here, the county court shall erect the court house at the established seat of justice and Section 49.370, RSMo 1969, provides that the county court shall designate the place whereon to erect any county building, on any land belonging to such county, at the established seat of justice. Section 49.380, RSMo 1969, provides that if there is no suitable land belonging to the county to erect a county building at the "established seat of justice" the county "shall select a proper piece of ground anywhere within the corporate limits of the town known as the county seat".

We further note that historically it is evident that the Constitutional Convention of 1943-44 was of the view that the administration of the county government should be located at the county seat. That is, Section 40 (19) of Article III of the Missouri Constitution prohibits the General Assembly from passing any local or special law locating or changing county seats. Likewise, Section 6 of Article VI of the Missouri Constitution prohibits the removal of county seats except by vote of two-thirds of the qualified electors of the county voting thereon at a general election.

It is our conclusion drawn from these constitutional and statutory provisions that it was not intended that the county courts would have the authority to remove the county administration from within the county seat.

We conclude in answer to your question that the Clay County Court has no authority to construct buildings for administrative offices of Clay County or for a Juvenile Division of the Circuit Court outside of the limits of Liberty, Missouri.

Very truly yours,

JOHN C. DANFORTH  
Attorney General

Enclosure: Op. No. 38  
1/11/54, Hawkins