

COUNTY COURT: Must care for the poor of the county - cannot turn over funds to local representatives of Mc. Relief and Reconstruction Commission to be dispensed by them.

11-16
November 12, 1934.



Hon. John B. Brooks,
Presiding Judge of County Court,
Grundy County,
Trenton, Missouri.

Dear Sir:

This department is in receipt of your letter of October 22, 1934, wherein you make the following inquiry:

"Will you please advise if this court turns over the amount spent monthly for local poor to the local representative of the Missouri Relief and Reconstruction Commission, would they then be absolved from claims of other citizens of the county who were destitute?

In other words, can this function of the court be delegated to the above Commission and the court be relieved as against claims of other persons?"

Under Sec. 12953, R.S. Mo. 1929 it is made the duty of the county court to support the poor, said section providing as follows:

"The county court of each county, on the knowledge of the judges of such tribunal, or any of them, or on the information of any justice of the peace of the county in which any person entitled to the benefit of the provisions of this article resides, shall from time to time, and as often and for as long a time as may be necessary, provide, at the expense of the county, for the relief, maintenance and support of such persons."

A more pointed section is Section 12950, R.S. Mo. 1929, which is as follows:

"Poor persons shall be relieved, maintained and supported by the county of which they are inhabitants."

Section 12961, R.S. Mo. 1929 makes it the duty of the county court to set apart funds; it provides:

"The several county courts shall set apart from the revenues of the counties such sums for the annual support of the poor as shall seem reasonable, which sums the county treasurers shall keep separate from other funds, and pay the same out on the warrants of their county courts."

Formerly, Section 9986, R.S. Mo. 1929 made it the duty of the County Treasurer to separate and divide the revenue of a county, including the Pauper's Fund. The new County Budget Law repealed this section and providing for the duties of the County Treasurer and other officials, made Class 1, (Sec. 2, Laws of Mo. 1933, page 341) a first lien upon the county funds.

In the case of Jennings v. City of St. Louis, 332 Mo., l.c. 179-180, the Court in discussing the rise of paupers and the duty of the county in caring for them, said:

"The good of society demands that when a person 'is without means, and unable, on account of some bodily or mental infirmity, or other unavoidable cause, to earn a livelihood', he is entitled to be supported at the expense of the public. 'It is immaterial how the alleged pauper is brought into need, as it is the fact of the situation and not the method of producing it that is important'. 'So the fact that a person's want is the result of gross intemperance does not prevent him from securing relief as a pauper.' 'An able-bodied man, who can, if he chooses obtain employment which will enable him to maintain himself and family, but refuses to accept employment, is not entitled to public relief, though relief may be properly extended to the wives and children of such men.' (21 R.C.L. 705, 706). It necessarily follows

that an able-bodied man, who is unable to obtain employment on account of the economic conditions existing at the time, and who is without means of support is entitled to public relief.

The Supreme Court of Pennsylvania directly passed on this question in the recent case of Commonwealth v. Liveright, 161 Atl. 697, l.c. 710: 'We again hold that the support of the poor--meaning such persons as have been understood as coming within that class ever since the organization of the Government, persons who were without means of support, the same persons stated in the *** Bill *** is and has always been a direct charge on the body politic for its own preservation and protection; and that as such, in the light of an expense, stands exactly in the same position as the preservation of law and order. The expenditure of money by the state for such purposes is in performance of a governmental function or duty, and is not controlled by the constitutional provision, if the purpose is to supply food and shelter to the poor, including those who are destitute because of enforced unemployment, provided only that the money be not administered through forbidden channels. The appropriation in providing for relief of poor comprehended those who had been driven into that situation through enforced unemployment; they having no means to support themselves. From this cause the ranks of the poor had increased so rapidly as to stagger the people of our state. The fact that their numbers are swollen through unemployment does not change the established concept of poor persons. To hold that the state may not under the Constitution now aid such people, even though it had a governmental duty, would be to deny to the state the right to perform, not only an important, but at this time a most pressing, governmental function. To hold that the state cannot or must not aid its poor would strip the state of a means of self-preservation, and might conceive untold hardships and difficulties for the future."

CONCLUSION

In view of the statutes and the decisions herein quoted, it is the opinion of this department that it is the duty of the county court to care for the poor. The statutes have set forth the duties of the court and we know of no method by which the county court could delegate its duties in that respect to any other organization and thereby be relieved of its plain duty as set forth in the statutes; hence, we are of the opinion that you cannot turn over the funds to the local representative of the Missouri Relief and Reconstruction Commission to be disbursed by them--the same must be paid out according to the direction and orders of the County Court.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK,
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