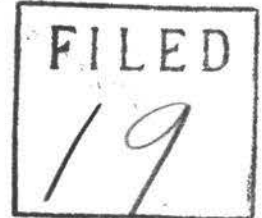


COUNTY FARM BUREAUS: County Court must make appropriation to
county farm organization, and extension
EXTENSION AGENT : agents must maintain office at county seat.

December 10, 1943.

Hon. Phil H. Cook,
Prosecuting Attorney
Lafayette County,
Lexington, Missouri.

12-14



Dear Sir:

This will acknowledge receipt of your letter
of October 30, 1943, as follows:

"The County Court has requested me to ask
for an opinion from your office on the follow-
ing: The County Farm Organization, The County
Agricultural Agent, and The Home Demonstration
Agent of Lafayette County, maintain their of-
fices and headquarters in Higginsville, Mis-
souri, which is not the county seat. Assuming
that the County Agricultural Agent and The
County Home Demonstration Agent fails or refus-
es to move their offices and headquarters to
the county seat, as provided in House Bill No.
112 of the Sixty-Second General Assembly, would
the County Court have authority to appropriate
and pay the funds provided in House Bill No. 112
to the County Farm Organization."

The provisions of House Bill 112 appear in Laws,
1943, page 319 et seq. Section 5 of said Act is as follows:

"The board of directors of the county farm
organization, in cooperation with the county
court and the University of Missouri College of
Agriculture, shall prepare an annual financial
budget covering the county's share of the cost
of carrying on cooperative extension work in
agriculture and home economics provided for in
this act, which shall be filed with the county
court in class 4 of the budget of county expen-
ditures for such year in counties budgeting the
county expenditures by classes and in all other
counties in the budget document, subject to the
following restrictions:

"In counties with a total assessed valuation of \$7,500,000.00 or less, the minimum appropriation shall be \$1,000.00. In counties with a total assessed valuation of \$12,000,000.00 or less, but more than \$7,500,000.00, the minimum appropriation shall be \$1,600.00. In counties with a total assessed valuation of \$25,000,000.00, or less but more than \$12,000,000.00, the minimum appropriation shall be \$2,000.00. In counties with a total assessed valuation of more than \$25,000,000.00, the minimum appropriation shall be \$2,500.00.

"Provided, that no county shall appropriate more than twenty-five (25) cents per capita of the rural population as determined by the last federal census:

"Provided further, that in any year in which the county farm organization approves a budget of lesser amount than is herein provided, then the lesser amount so approved shall be appropriated by the County Court."

Section 6 of the Act contains the following provision:

"The office or headquarters of any county agriculture agent, county home demonstration agent or county boys' and girls' club agent, as provided for in this act, shall be maintained at the county seat of each county."

The question presented is whether each of the above provisions is mandatory and independent of the other, that is, must county courts make the appropriation specified in Section 5 irrespective of whether the agents named in Section 6, supra, maintain their office and headquarters at the county seat, and must said agents maintain their office and headquarters at the county seat irrespective of whether the county court makes the appropriation specified in Section 5.

Dealing first with the appropriation, we note that Section 5 provides that the budget covering the county's share of the cost of carrying on cooperative extension work in agriculture and home economics "shall be included by said county court" in the budget of county expenditures. Ordinarily

"the use of the word 'shall' indicates a mandate, and unless there are other things in a statute it indicates a mandatory statute." State ex rel. Stevens v. Wurdeman, 246 S.W. 189, 194 (Mo. Sup.). Another applicable rule is that a statute will be construed as mandatory, "where public interests are concerned and the public or third persons has a claim de jure that the power conferred should be exercised or whenever something is directed to be done for the sake of justice or the public good". Kansas City, Mo. v. J. I. Case Threshing Mach. Co., 87 S.W.(2d) 195, 205 (Mo. Sup.). Here, Section 5, uses the mandatory word "shall" in directing that something be done, and the thing to be done is something in which a third person (the county farm organization) and the public generally have a claim de jure, and it (the appropriation) is for the public good. We have no doubt that the terms of Section 5, in requiring the appropriation to be made, are mandatory and must be obeyed by the county court.

Next we note that Section 6, in dealing the office situs of the agents named therein, states that said office or headquarters "shall be maintained at the county seat in each county." Under the Wurdeman case, supra, this is an indication that such requirement is mandatory.

Further it appears that the county agriculture agent, county home demonstration agent and county boys' and girls' club agents are employees of the University of Missouri. The nature of this branch of the University's activities is stated in the 1941-1942 Official Manual of Missouri, page 606, as follows:

"The Agricultural Extension Service was established by the Board of Curators of the University, June 8, 1914. Approximately one-half of its support comes from federal funds allotted to the state under the terms of the Smith-Lever Act of Congress, approved May 8, 1914, and later supplementary Acts of Congress. The balance of the financial support accruing to this service is derived from state and county appropriations, supplemented by funds contributed by various organizations, principally the county farm bureaus of the state.

"The Agricultural Extension Service is a teaching branch of the University. It is organized and administered for the specific purpose of giving information in subjects relating to agriculture and home economics to persons who are not resident at the University. It teaches both adults and young people -

the latter through the agency of the Boys' and Girls' 4-H clubs.

"Instruction is given mainly by the use of demonstrations established on farms and in farm homes. Local organizations and local leadership are utilized to the fullest extent possible, to the end that people may be taught in groups corresponding to the way classes are taught on the campus. Large use is made of printed circulars.

"All lines of instruction are organized on a project basis. Extension instruction is based mainly on county and community programs of work. These programs, in turn, are based on the conscious needs of counties and communities for instruction in agriculture and home economics of immediate local significance."

This activity of the University is supported out of the public treasury of Missouri (Laws, 1943, p. 198 Sec. 1) and by contributions from the Federal government under the Smith-Lever Act, 7 U.S.C.A. 341-348, which federal act in Section 341 provides that said contribution is to be expended by the colleges "as the legislature of such state may direct." In other words, these agents are employees of the State of Missouri and as such are subject to rules governing their place of employment as the State, through the General Assembly, may direct. The State has the unquestioned right to prescribe where one of its employees shall maintain his office, and when it does so in the mandatory language, here used, such direction must be obeyed. Clearly the requirement of Section 6, as to the location of the office of these agents, is mandatory.

It therefore appears that each provision under examination is mandatory. We see nothing in said Act (Laws, 1941, p.319, Secs. 1-10) which in any way indicates that these provisions are dependent one upon the other, and that if one requirement is not obeyed then the other may be ignored. Examination of the Act conclusively demonstrates that this cannot be so. It directs the county court to appropriate a certain sum toward the expense of an organization called the "county farm organization" an incorporated body. Why should that body be caused to suffer because these county agents neglect or refuse to do as the law directs? The agents are not the county farm organization, and on the other hand why should these agents be held to have authority to ignore the law because the county court fails or refuses to do as the

law directs? The appropriation required to be made does not go to these agents, but rather to the county farm organization. While it may be used to pay these agents, that does not alter the situation.

CONCLUSION.

It, therefore, is our opinion that both the provisions under discussion are mandatory, and the county court must make the required appropriation, without regard to whether the agents maintain their office at the county seat, and the agents must maintain their office at the county seat without regard to whether the county court makes the required appropriation. Failure on the part of either to comply with these provisions may be corrected by writ of mandamus.

Respectfully submitted,

LAWRENCE L. BRADLEY,
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK,
Attorney-General.

LLB/LD