

CIRCUIT COURTS:  
COURTS:

Senate Bill No. 96, 70th General Assembly, abolished the statutory requirement that certain terms of the Circuit Court of Macon County be convened at LaPlata, and there is no longer any statutory provision for maintaining a courtroom at LaPlata and paying the expenses therefor.

October 23, 1959

FILED

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Honorable Charles A. Powell, Jr.  
Prosecuting Attorney  
Macon County  
Macon, Missouri

Dear Mr. Powell:

This is in response to your letter of October 6, 1959, requesting an opinion of this office, which request reads as follows:

"I have been requested by the judges of the Circuit and County Courts of this County to request an opinion of your office respecting the status of the LaPlata, Missouri Circuit Court, which same appears to have been abolished by the recent redistricting enactments."

It is to be noted that in your recent request you stated that you desired an opinion regarding the status of the LaPlata, Missouri Circuit Court. It would appear that this is an incorrect designation since the statutes cited hereinafter did not create the LaPlata, Missouri Circuit Court but instead provided only for the convening of the Macon County Circuit Court at LaPlata at the times specified therein.

In view of our telephone conversation of October 14, 1959, and the language used in your request, this opinion relates to whether Senate Bill No. 96, 70th General Assembly, abolishes the statutory requirements for holding certain terms of the Macon County Circuit Court at LaPlata.

Sections 478.360, 478.363 and 478.367, RSMo 1949, all related to the Circuit Court of Macon County at LaPlata. Section 478.360 provided that three terms of the Circuit Court of Macon County should be held at LaPlata; Sections 478.363 and 478.367 pertained to the change of venue and judgments of the Macon County Circuit Court at LaPlata.

Section 478.080, RSMo 1949, provided that the Second Judicial Circuit should be comprised of Macon and Shelby Counties, and Section 478.210, RSMo 1949, created the terms of court for the Second Judicial Circuit and provided for the terms of court that were to be held at LaPlata.

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Senate Bill No. 96, 70th General Assembly, which became effective on August 29, 1959, specifically repealed Sections 478.360, 478.363, 478.367, 478.080 and 478.210, supra. Section 478.177, V.A.M.S., Pamphlet No. 5 (August, 1959) created Judicial Circuit No. 41 which is composed of Macon and Shelby Counties. Section 478.310, V.A.M.S., Pamphlet No. 5 (August, 1959) specifies the terms of court in the 41st Judicial Circuit and reads as follows:

"In the County of Macon, on the first Mondays in May and September and the third Mondays in November and January; in the County of Shelby, on the third Monday in February and the first Mondays in June and October."

Sections 478.360, 478.363 and 478.367, supra, were repealed outright by Senate Bill No. 96 and no further legislation was enacted to provide for the holding of court at LaPlata. Therefore, it must be concluded that there is no longer any statutory requirement that the Macon County Court be convened at LaPlata, and there is no provision for maintaining a courtroom at LaPlata and paying the expenses therefor. It is to be noted that Section 478.310, supra, is silent as to the place where the terms of court for Macon County are to be held.

Article V, Section 14, Constitution of Missouri, 1945, reads as follows:

"The circuit courts shall have jurisdiction over all criminal cases not otherwise provided for by law, exclusive original jurisdiction in all civil cases not otherwise provided for, and concurrent and appellate jurisdiction as provided by law. Such courts shall sit at times and places in each county as prescribed by law." (Emphasis ours.)

Section 49.310, RSMo 1949, reads as follows:

"The county court in each county in this state shall erect and maintain at the established seat of justice a good and sufficient courthouse, jail and necessary fireproof buildings for the preservation of the records of the county. \* \* \*"  
(Emphasis ours.)

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The established seat of justice for Macon County is the City of Macon.

For your information we are enclosing herewith a copy of an opinion of this office dated January 11, 1954, issued to Honorable James P. Hawkins, Judge, 18th Judicial Circuit, which relates to the duty and authority of the county to designate and provide a suitable place for holding circuit court at the established seat of justice.

CONCLUSION

Therefore, it is the opinion of this department that Senate Bill No. 96, 70th General Assembly, abolished the statutory requirement that certain terms of the Circuit Court of Macon County be convened at LaPlata, and there is no longer any statutory provision for maintaining a courtroom at LaPlata and paying the expenses therefor.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Calvin K. Hamilton.

Yours very truly,

JOHN M. DALTON  
Attorney General

CKH/mlw  
Enclosure