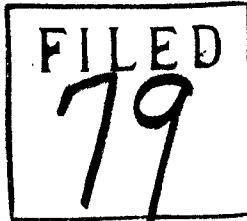


COUNTY COURT:  
LAW LIBRARY:

A county court of a county of the fourth class has no authority to establish and maintain a law library for the use of the circuit judge, prosecuting attorney and members of the county bar.

April 18, 1952



5/2/52

Honorable Jerry B. Schnapp  
Prosecuting Attorney of  
Madison County  
Fredericktown, Missouri

Dear Sir:

Reference is made to your recent request for an official opinion of this department. Your request reads as follows:

"Is a County Court of the 4th Class permitted by law to purchase and maintain a Law Library for use of non-resident Circuit Judge, County Prosecuting Attorney and Members of the County Bar?"

Section 7, Article VI, Constitution of Missouri 1945, provides that in each county not framing and adopting its own charter or adopting an alternative form of county government, there shall be a county court and prescribes the duties of the court as follows:

"In each county not framing and adopting its own charter or adopting an alternative form of county government, there shall be elected a county court of three members, which shall manage all county business as pre-  
scribed by law, \* \* \*."

(Underscoring ours.)

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It is generally stated that county courts are courts of limited jurisdiction and aside from the management of the fiscal affairs of the county, possesses no powers except those conferred by statute. We direct your attention to 20 C. J. S., Counties, Section 82, Page 849, wherein it is stated:

"It is well settled that a county board possesses and can exercise such powers, and such powers only, as are expressly conferred on it by the constitution or statutes of the state, or such powers as arise by necessary implication from those expressly granted or such as are requisite to the performance of the duties which are imposed on it by law. It must necessarily possess an authority commensurate with its public trusts and duties."

This rule has been adopted by the Supreme Court of Missouri in the case of King v. Maries County, 297 Mo. 488, l. c. 496, wherein the court said:

"It has been held uniformly that county courts are not the general agents of the counties, or of the State. Their powers are limited and defined by law. They have only such authority as is expressly granted them by statute. (Butler v. Sullivan County, 108 Mo. 630; Sturgeon v. Hampton, 88 Mo. 203; Bayless v. Gibbs, 251 Mo. 492; Steines v. Franklin County, 48 Mo. 167.) This is qualified by the rule that the express grant of power carries with it such implied powers as are necessary to carry out or make effectual the purposes of the authority expressly granted. (Sheidley v. Lynch, 95 Mo. 487; Walker v. Linn County, 72 Mo. 650; State ex rel. Bybee v. Hackmann, 276 Mo. 110.)"

See also Jefferson County v. Cowan, 54 Mo. 234, Missouri Electric Power Company v. City of Mountain Grove, 352 Mo. 262, State ex rel. Moser v. Montgomery, 238 Mo. App. 1228.

The term "as prescribed by law" as used in Section 7, Article VI of the Constitution, has been interpreted by the courts of this state to mean as prescribed by statute. We have been unable to find any statutory provision authorizing the county court of a county of the fourth class to purchase and maintain a law library for the use

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of a non-resident circuit judge, prosecuting attorney and members of the county bar, nor do we believe that the authority to establish and maintain such a library may be implied from any express grant of power and therefore, must conclude under the foregoing cited cases and authority that the county court has no such authority. In arriving at such conclusion we do not mean to pass upon the right, power or authority of a county court to maintain a library for the prosecuting attorney, since you apparently refer to a library other than such and for a different purpose.


CONCLUSION

Therefore, it is the opinion of this department that a county court of a county of the fourth class has no authority to establish and maintain a law library for the use of a non-resident circuit judge, county prosecuting attorney and members of the county bar, since such authority has not been expressly conferred by statute and since it cannot be reasonably implied from any express grant of power.

Respectfully submitted,

D. D. GUFFEY  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
Attorney General

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