COUNTY FARM BUREAU:

Suggestion and citation of cases to support county defense in suit by Bureau for appropriation.

7-4

June 21, 1933.

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Mr. Arch M. Skelton,
Prosecuting Attorney,
Lexington, Missouri.

Dear Sir:

We are acknowledging receipt of your letter of June 1, 1933, in which you inquire as follows:

"The Lafayette County Farm Bureau, a voluntary association, has filed suit against Lafayette County, Missouri to recover a claim against an appropriation made November 14, 1932, by the Lafayette County Court for salaries paid to the county agent and home demonstrator. Enclosed you will find a copy of the county court record showing every appropriation and account of the county court from 1920 to date with reference to the appropriations and money paid by said county court to the use and benefit of the Lafayette County Farm Bureau.

I respectively ask an opinion from your office on the following question: Does the County Court record making the last or any prior appropriation, as enclosed, show the necessary jurisdictional facts whereby the said order or orders are valid or could be sustained as such in the court for the payment of the claim made by the Lafayette County Farm Bureau?

Since it is my duty to defend the county in the action instituted I would appreciate any suggestions from your office as to the best manner of meeting the action instituted. The action instituted by the Lafayette County Farm Bureau is a claim against the said county for money due for each of said months of January, February and March; each month being for one-twelfth (1/12) of the appropriation made.

The present county court refuses to make payment of the appropriation because the order does not show that the Lafayette County Farm Bureau has in any manner complied with the statutory requirements as to sufficiency of members and paid up dues.

Thanking you very much for an immediate answer and an opinion, I am."

We have examined the orders made by the county court which you enclosed. We do not believe that any of these orders contain the necessary jurisdictional averments. The order made on November 14, 1932, is the one which is the basis of the suit in question. It is similar to all other orders heretofore made by the court relating to this subject.

Article 16, chapter 87 R. S. Mo. 1929, provides for County Farm Bureaus and their organization. Section 12617 R. S. Mo. 1929, defines a county farm organization as one composed of not less than 250 bona fide farmers, farm women or tenants, with an annual membership fee of not less than fifty cents per member fully paid up, its constitution and by-laws formally adopted and its officers elected and installed. It is apparent from the foregoing section that a farm organization whose membership has decreased below the minimum fixed by the statute is not a County Farm organization within the definition of the statute. It is not every county farm organization or organization within the county that is entitled to receive the benefit of the Smith-Lever act and of Article 17, chapter 87. The county court is only authorized to make appropriations of public money for the benefit of the County Farm Bureau when such Bureau has complied with the requirements of the statute.

The county court is, of course, a court of limited jurisdiction and does not operate under the common law. Its powers are those specifically delegated to it by the Legislature and, under the County Farm Bureau act, it only has power to appropriate the public money for support of county farm organizations, when such organizations are organized according to the terms of the statute, and so long as those organizations remain entitled to the appropriation. It is not within the contemplation of the statute that simply because an organization has once organized and has fulfilled the requirements of the statute, that it may continue to receive public support even though it may have ceased to fulfill the requirements of the statute. It appears to us that before the county court will have authority to make any appropriation under this chapter, they must find and their record must show that the county organization is entitled to receive the appropriation. It is only upon the organization's compliance with the statute that the right to receive the appropriation accrued. When the right to act is dependent upon certain requirements being met, its requirements are jurisdictional. The county court is a court of limited jurisdiction, and courts of limited jurisdiction and inferior courts, not proceeding according to the course of common law, are confined strictly to the authority given, and the record of such courts must show the existence of all the facts necessary to give jurisdiction, both of the subject-matter and the parties to the action. That general rule is supported by the following cases:

State v. Trimble, 247 S. W. 187,
State v. Metzger, 26 Mo. 65,
Hansberger v. Pacific Railroad Company, 43 Mo. 196,
Schell v. Leland, 45 Mo. 289,
State v. Colbert, 201 S. W. 52,
State v. Woods, 333 Mo. 357,
Evans v. Andres, 42 S. W. (2d) 32, 34,
State ex rel V. Wilson, 216 Mo. 315.

The above cases are also authority for the proposition that where the court's power to act depends upon special statutory authority and upon a condition precedent fixed by the statute, it could have no jurisdiction save under such condition.

The above cases are also authority for the proposition that upon a direct attack, presumptions are not indulged to support or supply the jurisdiction of a court of inferior and limited jurisdiction, but its jurisdiction must affirmatively appear on the face of its proceedings.

There is another line of cases, however, such as State v. Fulton, 152 M. A. 345; Ansell v. Bridge Company, 223 Mo. 237; Desloge et al v. Tucker, 198 Mo. 587, 601, which announces the doctrine that a county court is a court of limited jurisdiction. Yet, as to such matters as the statute places exclusively within their jurisdiction, they stand on the same footing as courts of general jurisdiction and the same presumptions are to be indulged in favor of the regularity of their proceedings and the validity of their judgments in relation to their jurisdiction of judgments and orders in courts of general jurisdiction. However, under the rule announced by this line of cases, it would be proper to overcome the presumptions by proof of facts tending to show a state of facts to the contrary.

The record of the county court is bare as to facts that would show that the farm organization was properly in existence as required by the statute. We believe you should rely upon the cases cited above which announce the doctrine that such additional facts must appear in the order or records of the court, and unless they do so appear, they will not be presumed. If the court should adopt the view that such jurisdictional facts are presumed to exist as held under the last line of cases, you would be entitled to prove, if such were a fact, that the organization did not consist of 250 fully paid up members.

Of course, we cannot predict how the court will decide the case. We have pointed out to you certain cases which may be helpful to you in defeating the suit now pending. The last line of cases suggested by us no doubt will be relied upon by the attorneys for the plaintiff, but we believe that you will be able to point out to the court the rule announced in those cases does not apply to the case at bar.

We are returning the copy of the county court record.

Very truly yours,

Frank W. Sayers

Assistant Attorney General.

APPROVED:

Attorney General.

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