

COUNTY COURTS: Do not have exclusive control over the purchase of incidental expenses or supplies for the proper conduct of a county office.

May 9, 1941

Honorable Gus James
Clerk of the County Court
Bollinger County
Zalma, Missouri



Dear Sir:

We are in receipt of your request for an opinion, dated April 25, 1941, which reads as follows:

"Section 2509 of the revised statutes apparently applies only to counties having a population of more than 70,000. There does not seem to be any law giving the county court in small counties exclusive control over the purchases of supplies. Please give me the opinion of your office on this matter."

Section 2509, Revised Statutes of Missouri, 1939, is a part of Article XIV, Chapter 10, and is only applicable to counties now having, or hereafter having, a population of not less than 70,000 inhabitants nor more than 90,000 inhabitants. Section 2509 is not applicable to the smaller counties under 70,000. As to the question whether or not the county court in small counties have exclusive control over the purchase of supplies, we are quoting from the case of Hammond & Stephens v. Christian County, 62 S. W. (2d) 844, 1. c. 845, which reads as follows:

"Our courts have interpreted and construed statutes relating to various county offices and officers so as to hold the county liable for the payment

of necessary incidental expenses incurred by such officer in the proper equipment and conduct of his office and the performance of his official duties, such expenses being reasonable in cost. In *Ewing v. Vernon County*, 216 Mo. 681, 116 S. W. 518, the county court refused to supply janitor service for the office of the recorder of deeds and to reimburse the recorder for stamps used in returning deeds, after they had been recorded, to the parties who had filed them for record. Construing the statute (Rev. St. 1899, Section 9055 (Mo. St. Ann., Section 11527)), requiring that the recorder 'shall keep his office at the seat of justice in each county' (*italics ours*), the court held it was the duty of the county to pay for necessary janitor services for the office of the county recorder and for stamps used as aforesaid. Reaffirming the interpretation of statutes made in the *Ewing Case*, it was held in *Harkreader v. Vernon County*, 216 Mo. 696, 116 S. W. 523, that the office of sheriff of that county was entitled to janitor service at the expense of the county, and that the county was liable for postage used by the sheriff in his official correspondence. Further, it was shown in that case that the county jail was connected with water mains, and that the sanitary needs of the jail were dependent upon water service supplied by a public service corporation engaged in the distribution and sale of water. The county court ordered such water service discontinued, but the sheriff, who by virtue of his office had charge of the jail, disregarded such order and continued the service. Construing a statute requiring that county jails be kept and maintained in a good and sufficient condition, the court held, in the light of

the facts of that case, that, the charges for water being reasonable, the county was liable for such service. The statute relied upon in *Motley v. Pike County*, 233 Mo. 42, 135 S. W. 39, 40, provides: 'Every probate court shall have a seal of office, of some suitable device, the expense of which, and the necessary expense incurred by said court for books, stationery, furniture, fuel and other necessaries shall be paid by the county.' Rev. St. 1909, Section 4065 (Mo. St. Ann., Section 2056). It was held that, under this statute, the county court having refused to provide janitor service for the probate courtroom, the probate judge was entitled to be reimbursed by the county for reasonable expenditures made by him for such janitor service and also to be reimbursed by the county for telephone rent paid by him for a telephone in his office. It was said: 'The term "other necessaries" as used in the statute is sufficiently broad to cover this item (telephone service). * * * We are of opinion that the plaintiff (the probate judge) with the power to furnish his offices with "other necessaries" had the right to engage telephone service to facilitate the business of his office with the general public.' In *Kansas City Sanitary Company v. Laclede County*, 307 Mo. 10, 269 S. W. 395, 398, the sheriff of Laclede County purchased supplies of soaps and insecticides from plaintiff company for use in maintaining the county jail in a sanitary condition. It was pointed out that, under one section of our statute (section 8526, R. S. 1929 (Mo. St. Ann., Section 8526)), 'the sheriff of the county has the custody, keeping, and charge of the jail,' and that another section of the statute

(section 8524, R. S. 1929 (Mo. St. Ann., Section 8524)) requires the jail 'to be kept in good and sufficient condition.' The court then said: 'He (the sheriff) therefore has full authority to purchase all supplies necessary to keep such jail in good and sufficient condition, which includes sanitary condition, and needed no authorization by the county court to render the county liable for purchases for such jail for such purpose.' In each of the foregoing cases, cited by appellant, the expense incurred by the county official for which the county was held liable was in connection with the necessary equipment or care and maintenance of the office room or rooms or county property under his charge, and for the care of which he was responsible, or in the furtherance and performance of official acts and within statutes held to authorize reasonable expenditures for such necessary purposes."

In all of the cases above quoted in the case of Hammond & Stephens v. Christian County it has been held that the county court is liable for all incidental expenses incurred by such county officer in the proper equipment and conduct of his office and the performance of his official duties. All of the above cases were cases involving the smaller counties, but, of course, counties having a population of less than 50,000 inhabitants are governed and limited by Sections 10910 to 10917, inclusive, of the Revised Statutes of Missouri, 1939, which is known as the County Budget Law. In counties having more than 50,000 and less than 80,000 inhabitants, the county and the county officers are limited by Sections 10918 to 10935, inclusive.

Therefore, in view of the above authorities, it is our opinion that the county officers have the authority to purchase the necessary incidental supplies required by such officer in the proper equipment and conduct of

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his office and the performance of his official duties, such expenses being reasonable in cost. In view of the voluminous sections of the statute providing and allowing the county officer to purchase incidental expenses for the proper conduct of his office, we refer you to the statute concerning each and every county officer.

It is the opinion of this office that the county court in small counties do not have exclusive control over the purchase of supplies for the proper conduct of the offices of the respective county officers.

Respectfully submitted,

W. J. BURKE
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APPROVED:

VANE C. THURLO
(Acting) Attorney General

WJB:VC