

COUNTIES: County court in county of third class may
not invest funds in United States Government
COUNTY COURT: securities except surplus in sinking and
interest fund and county and township school
funds.



April 1, 1958

Honorable Geo. S. Thompson
Prosecuting Attorney
Chariton County
Salisbury, Missouri

Dear Mr. Thompson:

This is in response to your request for opinion dated
March 12, 1958, which reads as follows:

"The county court of Chariton County, Missouri has requested that I obtain an Attorney General's opinion as to whether or not a county court of a third class county has the authority to invest county surplus general revenue funds in short term U. S. Government securities. Such surplus funds are available after the township collectors turn in their receipts and such surplus continues to exist until the last few months of each calendar year.

"I have noted that Article VI, Section VII of the Missouri 1945 Constitution provides that the county court shall manage all county business as prescribed by law. Section No. 50.680, V.M.S. 1949, provides for the classification of proposed expenditures. I am unable to locate any statute which specifically authorizes investment of county funds other than Section No. 50.040 which provides that a county court may invest school funds to purchase outstanding county revenue warrants."

Honorable Geo. S. Thompson

Article VI, Section 7, 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 elected a county court of three members, which shall manage all county business as prescribed by law, * * *." (Emphasis ours.)

It has been held on numerous occasions that the county court, as the fiscal agent of the county, is not the general agent of the county but may exercise only those powers expressly granted by statute or such as are necessary to carry out and make effectual the purposes of the authority expressly granted. *King v. Maries County*, 297 Mo. 488, 249 SW 418; *Bradford v. Phelps County*, 357 Mo. 830, 210 SW2d 996.

County courts are given express authority to invest the county and township school funds (Chap. 171, RSMo 1949, and Cum. Supp. 1957; Section 50.040, RSMo 1949) and may also invest any surplus in the sinking and interest fund as provided in Section 108.200, RSMo 1949. However, with regard to the general revenue of the county, the only legislative directive is that contained in Chapter 110, RSMo 1949, and Cum. Supp. 1957, providing for the selection of a county depository and the deposit of the county funds therein.

It is significant to note that in Section 110.170, RSMo 1949, the Legislature deemed it necessary to provide expressly that "nothing in sections 110.130 to 110.260 shall be construed to prevent county courts from lending the capital school funds of townships or of the county according to law."

Since county courts are agents of limited powers (*Huntsville Trust Co. v. Noel et al.*, Mo. Sup., 12 SW2d 751, 754) and express authority is given them to invest certain funds, i.e., county and township school funds and a surplus in the sinking and interest fund, it was evidently the intention of the Legislature that no other funds of the county be invested in any manner, but that they be placed in the county depository.

CONCLUSION

It is the opinion of this office that the county court in a county of the third class may not invest any of the funds

Honorable Ge. S. Thompson

under its control in short-term United States Government securities except a surplus in the sinking and interest fund and county and township school funds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN N. DALTON
Attorney General

JWI:ml