



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

September 25, 1998

Jim Ryan

ATTORNEY GENERAL

FILE NO. 98-018

JUDICIAL SYSTEM:
Court's Control of
Courtrooms During Adjournment

The Honorable Michael L. Wepsiec
State's Attorney, Jackson County
Jackson County Courthouse
Murphysboro, Illinois 62966

Dear Mr. Wepsiec:

I have your letter wherein you inquire regarding the validity of a circuit judge's administrative order that bars the county board from conducting county board meetings in his or her courtroom after the court has adjourned for the day. For the reasons hereinafter stated, it is my opinion that once a particular room in the courthouse has been allocated to the judiciary for use as a courtroom, the use thereof is, at all times, under the control of the court. Therefore, it is my opinion that a judge has the authority to prohibit the county board from conducting meetings in rooms that have been set aside for the use of the court.

The Honorable Michael L. Wepsiec - 2.

In 1874, the General Assembly enacted "AN ACT to revise the law in relation to counties" (hereinafter referred to as the "Counties Act") (Ill. Rev. Stat. 1874, ch. 34, par. 1 et seq.), section 26 of which (Ill. Rev. Stat. 1874, ch. 34, par. 26) provided, in pertinent part:

"It shall be the duty of the county board of each county:

First--To erect or otherwise provide when necessary, and the finances of the county will justify it, and keep in repair, a suitable court house, jail, and other necessary county buildings, and to provide proper rooms and offices for the accommodation of the several courts of record of the county, and for the county board, county clerk, county treasurer, recorder, sheriff, and the clerks of said courts, and to provide suitable furniture therefor. * * *

* * *

"

(Emphasis added.)

In Dahnke v. People (1897), 168 Ill. 102, the Illinois Supreme Court addressed the issue of whether the county board, or the circuit judges, had the authority to assign the use of the courtrooms in the courthouse. In reaching its conclusion that once particular rooms in the courthouse have been set aside for courtrooms, the possession of those rooms is under the control of the courts, and not the county board, the court stated:

"

* * *

* * * Under these provisions of [section 26 of the Counties Act] it is the duty of the county board to erect and keep in repair a suitable court house, and to provide rooms therein for the accommodation of the several courts of record of the county. When the board has provided rooms for the accommodation of the courts, the rooms so provided are then in the possession and under the control of the courts and their officers.

* * * It rests with the judges of the courts to arrange among themselves, how they will occupy the several court rooms thus provided for them by the county board. * * * The judiciary should be free from obstruction by county boards; it should be independent in all matters relating to the execution of judicial functions. There is danger, that such independence will be sacrificed, if the judges are not allowed free access to their court rooms and control over the same during the sessions of the court, and during its necessary seasons of adjournment.

* * *

"

(Emphasis added.)

Section 5-1106 of the Counties Code (55 ILCS 5/5-1106 (West 1996)), which enumerates the county board's current duties with respect to the furnishing of facilities for the courts, provides, in pertinent part:

"County offices, equipment and expenditures. It shall be the duty of the county board of each county:

First--To erect or otherwise provide when necessary, and the finances of the county will justify it, and keep in repair, a suitable court house, jail and other neces-

The Honorable Michael L. Wepsiec - 4.

sary county buildings, and to provide proper rooms and offices for the accommodation of the county board, State's attorney, county clerk, county treasurer, recorder and sheriff, and to provide suitable furniture therefor. * * *

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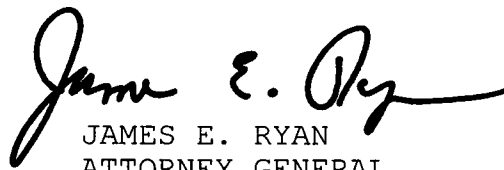
Sixth--To provide proper rooms and offices, and for the repair thereof, for the accommodation of the circuit court of the county and for the clerks for such court, and to provide suitable furnishings for such rooms and offices, and to furnish fire proof safes, and the repair thereof, for the offices of the clerks of the circuit court of the county. The court rooms and furnishings thereof shall meet with reasonable minimum standards prescribed by the Supreme Court of Illinois. * * *" (Emphasis added.)

The language in section 5-1106 of the Counties Code pertinent to your inquiry is virtually identical to the provisions of section 26 of the Counties Act construed by the supreme court in Dahnke v. People, and the same conclusion must be reached with respect to the circumstances you have described. In that case, the Illinois Supreme Court concluded that the judiciary's control over its courtrooms included not only those periods when the court was in session, but also "during its necessary seasons of adjournment". Therefore, the court's control over its courtrooms does not cease when the court adjourns for the day. That it is necessary for the judiciary to have control over its courtrooms after the court has adjourned,

The Honorable Michael L. Wepsiec - 5.

especially when the court has adjourned only for the day, is obvious when one considers that trial exhibits and other evidence or materials may be left in the courtroom overnight. Consequently, it is my opinion that a judge does have the authority to issue an order prohibiting the county board from using a courtroom for county board meetings.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long, sweeping tail on the "y".

JAMES E. RYAN
ATTORNEY GENERAL