

Payment of past indebtedness of a county cannot be paid out of current revenue unless there be more than a sufficient amount for current expenses.

9874 R.S. Mo 1929
October 3, 1933

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Mr. H. E. Gibson,
County Clerk - Crawford County,
Steelville, Missouri

Dear Sir:

We acknowledge receipt of your letter under date of September 16, 1933, in which you state and inquire as follows:

"We have on file in the County Clerks office several hundred dollars in Criminal Cost bills that were incurred in 1931 and 1932.

Should these Cost Bills be paid out of the 1933 revenue? If paid out of the 1933 revenue, should we write a warrant to the County Treasurer and let the Treasurer hold warrant until funds are available from this years collections?

Thanking you for this information, I am."

Section 9874 R. S. 1929, reads as follows:

"The county courts of the several counties of this state are hereby authorized and empowered, at the first regular term of such court after the taking effect of this chapter, and at the May term every year thereafter, to appropriate, apportion and subdivide all the revenues collected, and to be collected, and moneys received and to be received, in the various counties in the state, for county purposes, in the following order:

I. A sum sufficient for the payment of all the necessary expenses that may be incurred for the care of paupers and insane persons of such county.

II. A sum sufficient for the payment of all necessary expenses for the building of bridges and repairing of roads, including the pay of road overseers of such county.

III. A sum sufficient for the payment of the salary of all county officers, where the same is by law made payable out of the ordinary revenues of the county.

IV. A sum sufficient for the payment of the fees of grand and petit jurors, judges and clerks of elections, and fees of witnesses for the grand jury of the county.

V. A sum sufficient for the payment of the other ordinary current expenses of the county, not hereinbefore specially provided for, which shall be known and designated as the contingent fund of such county; which last sum shall in no case exceed one-fifth of the total revenue of such county for county purposes for any one year."

It will be observed from the above that it requires the County revenues to be appropriated to which it is solemnly pledged.

The fourth, required by that section of the Statute, relates to fees of grand and petit jurors, judges and clerks of elections and fees of witnesses for the grand jury.

Section 12, Article X of the Constitution of Missouri begins as follows:

"No county, city, town, township, school district or other political corporation or subdivision of the State shall be allowed to become indebted in any manner or for any purpose to an amount exceeding in any year the income and revenue provided for such year, etc."

In the case of *Book v. Earl*, 87 Mo. l. c. 251, the Court said in part as follows:

"The evident purpose of the framers of the constitution and the people who adopted it was to abolish, in the administration of county and municipal government, the credit system and establish the cash system by limiting the amount of tax which might be imposed by a county for county purposes, and limiting the expenditures in any given year to the amount of revenue which such tax would bring into the treasury for that year. Section 12, supra, is clear and explicit on this point. Under this section the county court might anticipate the revenue collected, and to be collected, for any given year, and contract debts for ordinary current expenses, which would be binding on the county to the extent of the revenue provided for that year, but not in excess of it."

We conclude, from the reasoning of the Supreme Court in the above case, that if the County Court can take the revenue collected in a given year and pay it out on obligations of a different year where there is not more than sufficient revenue to defray its current expenses out of said fund and absorb said funds in that way, the result would be there would be no funds with which to pay the current demands upon said funds and the consequence would be a suspension of the business affairs of the county relative to said particular fund.

We hold that the county is not legally obligated to pay demands beyond its contemplated revenues for the year in which the debt was created and it therefore follows that the cost bills for the years 1931 and 1932, mentioned in your letter, must await the collection of revenue levied for those years.

Yours very truly,

APPROVED:

W. W. Barnes
Assistant Attorney General

Attorney General.