

COUNTY WARRANTS: Warrants, school or county, of 1932 issue cannot be paid out of 1933 revenue

Sec. 12140, R.S. Mo. 1929 is the guide for the County Treasurer in the payment of warrants.

October 26, 1933.



Hon. H.B. Schroeder,  
Treasurer - Crawford County,  
Steelville, Missouri.

Dear Sir:

This department acknowledges receipt of your letter of October 5, 1933 relating to county warrants, which reads as follows:

"I would like to have some information concerning the paying of county revenue warrants. We have in our county several warrants that, written in January, 1933, were for the payment of county officers for the month of December, 1932. Should these warrants be paid out of this year's money, or out of last year's? There is something like \$3700.00 in the treasury that is back taxes, and as numerous county warrants are unpaid, what action should I take in paying any of these?"

I.

Warrants, school or county, of 1932 issue cannot be paid out of 1933 revenue.

We have written a number of opinions bearing on numerous phases of this question. The leading case in Missouri is *Kansas City, Fort Scott & Memphis Railroad Company, Appellant, v. Thornton*, 152 Mo. 570, l.c. 575-76, wherein the Court decided this question, and the same has never been overruled. The pertinent part of the decision is as follows:

"As claimed by counsel, section 3205 has been on our statute books since 1835, but prior to the adoption of the Constitution of 1875 there was no organic law which stood in the way of its enforcement. The result was, overwhelming debts were contracted, which necessarily went unpaid

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or excessive taxation had to be levied to pay them; the effect of which impaired the credit of the counties and cities, engendered recklessness and extravagance in the management of the public business and constantly oppressed the taxpayers. These were the evils that sections 11 and 12 of Article X of the Constitution were intended to remedy, first, by limiting the rate of taxation and, second, by limiting the yearly expenses to the revenue provided for each year. The wisdom of these safeguards has been fully demonstrated by the experience and improved financial status of the counties and cities since those provisions were adopted. It is the duty of the courts to enforce the organic law and to brush aside any statute which conflicts with it whether it was passed before or after the Constitution was adopted. Under these provisions of the Constitution warrants may be issued to the extent of the revenue provided for the year in which such warrants were issued, and the warrants so issued each year must be paid out of the revenue provided and collected for that year. If the revenue collected for any year for any reason does not equal the revenue provided for that year and hence is not sufficient to meet the warrants issued for that year, the deficit thus caused can not be made good out of the revenue provided and collected for any other year until all the warrants drawn and debts contracted for such other year have been paid, or in other words, only the surplus of revenue collected for any one year can be applied to the deficit of any other year. Thus each year's revenue is made applicable, first, to the payment of the debts of that year, and secondly, if there is a surplus any year it may be applied on the debts of a previous year. The intended effect of all which is to abolish the credit system and to establish a cash system in public business. If this rule results in any county not having money enough to pay as it goes or to run its governmental affairs, the remedy is not with the courts. Having reached this understanding of the meaning of the Constitution it follows, without the necessity of any analytical examination or comparison of statutes or prior decisions, that all statutes or decisions providing or holding a contrary rule must give way."

In view of the above decision, the salary warrants for the month of December, 1932 cannot be paid out of the revenue for 1933, but should be paid out of revenue for the year 1932.

II.

Section 12140, R.S. Mo. 1929 is the guide for the County Treasurer in the payment of warrants.

Regarding the money which you have in the treasury, received from back taxes, the warrants should be paid out of same in the order and in the manner as prescribed in Sec. 12140, R.S. Mo. 1929, which is as follows:

"No county treasurer shall refuse the payment of any warrant legally drawn upon him and presented for payment, for the reason that warrants of prior presentation have not been paid, when there shall be money in the treasury belonging to the fund drawn upon, sufficient to pay such prior warrants and any such warrant so presented; but such treasurer shall, as he shall receive money into the treasury belonging to the fund so drawn upon, set the same apart for the payment of warrants previously presented for the ordinary current expenses of the county as mentioned in the preceding section, and in the order presented, so that no such warrant of subsequent presentation shall remain unpaid by reason of the holder of such warrants of prior presentation failing to present the same for payment after funds shall have accrued in the treasury for their payment.  
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Respectfully submitted,

OLLIVER W. NOLEN,  
Assistant Attorney General

APPROVED:

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Attorney General