

AN OPINION RELATING TO THE PAYMENT OF DELINQUENT COUNTY WARRANTS.

February 15, 1934

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FILED

Mrs. Jessie Key Thomas
County Treasurer
North County
Grant City, Missouri

Dear Madam:

We acknowledge receipt of your letter in which you state an inquiry as follows:

"What in your opinion is the best way to pay the outstanding warrant against this county.

Whether to pay the oldest ones or the newer ones. The Prosecuting Attorney of this county is undecided, and I would like your opinion on it. Please answer as soon as possible."

I.

County Courts have the right to anticipate the revenue collected and to be collected for any given year and contract debts for ordinary expenses which would be binding on the county to the extent of the revenue provided for that year, but not in excess of it.

Section 12, Article 10 of the Constitution of Missouri provides in part 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, *****"

In *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 a 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, a 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."

It appears very clearly from the foregoing opinion of our Supreme Court that current revenue cannot be used to pay ob-

ligations of a different year unless there remains an excess after all obligations of the current year have been paid. For example, taxes levied for the year 1933 are to be used to pay obligations incurred by the County Court for ordinary current expenses for the year following. It matters not when the taxes are collected, they remain a part of the revenue anticipated for the year for which they were levied, and they shall first apply when collected to the obligations incurred for that period.

County Courts have a right to anticipate the revenue for each fund for which a tax was levied for a given year and to contract obligations for the ordinary county expenses for that year which are binding on the county to the extent of the contemplated revenue provided for that year for the purpose for which it is expended, but not in excess of it.

Section 5, Laws 1933, p. 344, provides in part as follows:

"Amount available for all other expenses after all prior classes have been provided for. No expense may be incurred in this class until all the prior classes have been provided for. No warrant may be issued for any expense in class 6 unless there is an actual cash balance in the county treasury to pay all prior classes for the entire current year and also any warrant issued on class six. No expense shall be allowed under class six if any warrant drawn will go to protest. PROVIDED, HOWEVER, if necessary to pay claims arising in prior classes warrants may be drawn on anticipated funds in class six and such warrants to pay prior class claims shall be treated as part of such prior funds. Nor may any warrant be drawn or any obligation be incurred in class

-4-

six until all outstanding lawful warrants for prior years shall have been paid. The court shall show on the budget estimate the purpose for which any funds anticipated as available in this class shall be used."

CONCLUSION

Therefore, this department rules that warrants issued for obligations incurred during previous years outstanding and unpaid should first be paid out of the revenue provided for that purpose for that year when such revenue is collected, or the County Court may, under the provisions of Class 6 of Section 5, Laws 1933 (supra), after all prior claims have been provided for and there is an actual cash balance in the county treasury to pay all prior classes for the current year and also all warrants previously issued in Class 6, pay such warrants out of funds in said Class 6, provided said outstanding and unpaid warrant or warrants were not in excess of the revenue contemplated for the year in which issued, and, if in excess of the contemplated revenue, are void and the county is not liable for such warrant or warrants.

Very truly yours,

W. W. BARNES,
Assistant Attorney General.

APPROVED:

ROY McKITTRICK,
Attorney General

WWB:FE