

COUNTY COURT: Warrants--right of county court to reduce rate of interest on.

June 19, 1935.



Hon. Richard Chamier
Prosecuting Attorney
Randolph County
Moberly, Missouri

Dear Sir:

A request for an opinion has been received from you dated March 6, 1935, in which the following question is asked:

"The County Court of this County wishes to reduce the interest rate on warrants if and when the same are protested. May they do this by stating on the back of the warrant that the interest, if and when the warrant is protested, will be 5% per annum?"

Section 12169, R. S. Missouri, 1929, fixes the form for county warrants, which includes no provision respecting interest. Section 12171 as to the form of protest for such warrants provides in part as follows:

"when presented for payment, if there be no money in the treasury for that purpose, the treasurer shall so certify on the back of the warrant, and shall date and subscribe the same."

Thus, neither the body of the warrant on the face thereof, nor its certification of protest on the back thereof, refers in any way to interest.

However, county warrants do bear interest as a matter of law after protest. Thus in the case of Skinner v. Platte County, 22 Mo. 437 (1856) the Court said:

"In order to draw interest, the warrant for the allowance must be made out and presented for payment to the treasurer; if he has funds to pay with, he pays the warrant without interest; if he has no funds to pay with, 'he shall so certify on the back of the warrant, date and subscribe the same.' (R. C. 1845, p. 311, sec. 6.) From this date the warrant will bear interest."

and in the case of Isenhour v. Barton County, 190 Mo. 163, 88 S. W. 759 (1905) the Court said:

"County warrants are creatures of the statute, and can only be issued in accordance therewith, but when no rate of interest is prescribed upon their face, they bear interest at the rate of six per cent per annum, as provided by section 3705, Revised Statutes 1899, after presentation to the treasurer of the county by which issued, and failure to pay because of there being no money in the treasury for their payment. (Robbins v. Lincoln County Court, 3 Mo. 57; Skinner v. Platte County, 22 Mo. 438; State ex rel. v. Trustees, 61 Mo. 155)."

There is a statute fixing the rate of legal interest on obligations containing no provision for interest, this being R. S. Missouri, 1929, Section 2839, which fixed the rate at 6% per annum. The statutory form of county warrants and the

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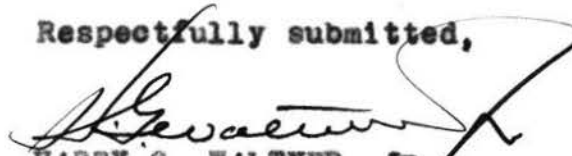
form for protesting the same contain no provisions respecting interest, and therefore Section 2839 would fix the rate of interest which warrants should bear. The County Court being of limited statutory powers cannot vary the form of county warrants and thereby prescribe a different rate of interest.

Before closing this opinion we direct your attention to Section 12184-A, page 358, Laws of Missouri 1933. By following the provisions of this section it should be possible for your county court to obtain cash for the holder of county warrants, and at the same time save a substantial amount of interest as undoubtedly the loan could be obtained from some federal agency, etc. at a lower rate of interest than six per cent.

CONCLUSION.

It is the opinion of this Department in view of the foregoing that the County Court of Randolph County has no authority to reduce the rate of interest which its warrants shall bear by stating on the back of the warrant that if and when the warrant is protested it shall bear five per cent interest per annum.

Respectfully submitted,



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APPROVED:

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HGW:MM