

OFFICERS: County officers not prohibited from purchasing county warrants at par value.

February 24, 1939

Hon. G. Logan Marr
Prosecuting Attorney
Morgan County
Versailles, Missouri

FILED
5

Dear Sir:

We have received your recent letter, which reads as follows:

"In this county certain deputy officers have been buying county warrants of others for the purpose of investments. They pay par for these warrants, and keep them for their own investment.

"There has been some complaint that this practice is contrary to law. There seems to be no cases cited under section 4094. Just what does the phrases 'shall traffic for or purchase at less than par value or speculate in any county warrant

"What would be your opinion on this matter?"

Section 4094 R. S. Missouri, 1929, which you mentioned in your letter, reads as follows:

"Every clerk of a court of record, sheriff, marshal, constable, collector of public revenue, or deputy of any such officer, or a judge of a county court, prosecuting attorney or county treasurer, who shall traffic for or purchase at less than the par value or speculate in any county warrant issued by order of the county court of his county, or in any claim or demand held against such county, shall be adjudged

guilty of a misdemeanor, and shall, upon conviction, be punished by fine not less than twenty nor more than fifty dollars."

In other words, the above statute states that if certain designated officers "shall traffic for or purchase at less than the par value, or speculate in any county warrant" such person shall be adjudged guilty of a misdemeanor.

The word "traffic" was defined in the case of *ex parte Moore*, 8 Pac. (2d) 818, as follows:

"According to the Century Dictionary the verb 'traffic' means 'to carry on commerce', 'to have business or dealings', or 'to deal'.

In the case of *In re Cameron Town Mutual Fire, Lightning & Windstorm Insurance Company*, 96 Fed. 756, the word "traffic" is defined as "the buying of something from another, or the selling of something to another".

The Supreme Court of Wisconsin in the case of *Clifford v. State*, 29 Wis. 327, states that the words "traffic in" are synonymous with the word "deal".

Consequently, the word "traffic" as used in section 4094, R. S. Missouri, 1929, must mean the buying, selling, and dealing generally in county warrants, and other claims against the county.

Now as to the word "speculate": In the case of *Arentsen v. Moreland*, 99 N. W. 790, the Supreme Court of Wisconsin stated that to "speculate" is to "take the risk of loss in view of possible gain". Incidentally, this is also the definition given of the word in the Century Dictionary.

Therefore we conclude that the meaning of section 4094, R. S. Missouri, 1929, that none of the officers designated therein shall deal in, buy, sell or purchase any county warrant for less than the par value thereof; that they shall not speculate in the

same, that is to "take the risk of loss in view of possible gain". If they purchased the same at par or face value we cannot see how it can be said that a "possible gain" might accrue. The county will not retire the same at an amount greater than par. There is a risk of loss involved in the event the county could never redeem, but there is no possibility of a gain.

CONCLUSION.

It is our conclusion therefore, that it is not in violation of law for clerks of courts of record, sheriffs, marshals, constables, collectors of public revenue, or deputies of any such officers, or judges of county courts, or prosecuting attorneys, or county treasurers, to purchase county warrants if the same are purchased at par or face value. If any such officer should deal in, purchase, or speculate in county warrants at prices less than par, then any such officer would be adjudged guilty of a misdemeanor as provided for in section 4094, R. S. Missouri, 1929.

Respectfully submitted,

J. F. ALLEBACH
Assistant Attorney General

APPROVED:

J. W. BUFFINGTON
(Acting) Attorney General.