

COUNTY BUDGET:

Bills for county for 1937, may now be paid out of funds of 1937 revenue, in accordance with priority of classes as budgeted by county for year 1937.

February 12, 1938



Honorable B. G. Dilworth  
Prosecuting Attorney  
Dent County  
Salem, Missouri

Dear Sir:

This Department acknowledges receipt of your letter of February 9th, wherein you make the following request:

"I respectfully ask the opinion of your department concerning the following:

"During the year 1937, the County Court of Dent County, Missouri, in issuing 1937 warrants, did not come up to the budget limit of 90% of the anticipated 1937 revenues. Since December 31, 1937, various bills have been presented for services rendered the county during 1937, and which are properly payable as 1937 county obligations but for which warrants were not drawn prior to January 1, 1938. The County Court has asked that I secure your department's opinion as to whether or not warrants can now be drawn to pay such bills and obligations, such warrants now drawn to be drawn on the 1937 funds of the various and proper classes."

The purpose of the County Budget Act was to promote efficiency and economy in county government. When Article X, Section 12, of the Constitution was framed and adopted by the people the main purpose in mind was to abolish a credit system and establish a cash system by limiting the amount of tax which might be imposed for county purposes and limiting the expenditures in any year to the amount of revenue which such a tax would bring to the treasury for that year. By the terms of this section the county court was empowered to anticipate the revenue which might be collected during the current year and were permitted to contract debts for ordinary current expenses just so long as the debts were within the purview of the anticipated revenue.

Formerly Sections 9874, 9985 and 9986, R. S. Mo. 1929, were the controlling statutes with reference to the allotment and classification of county revenue. The Budget Act did not completely abolish the former system but merely emphasizes the cash system by creating priorities among the classes. Section 4 of the original act, page 343, Laws of Missouri, 1933, in enumerating the duties of the county clerk, states:

"Total unpaid obligations of the county on January 1st of current year. (This shall include unpaid warrants and outstanding bills for which warrants may issue)"

Thus it will be noted that the county court on February 1st has a complete analysis and statement of the finances of the county of any given year.

By Section 12 of Article X, supra, and decisions of the Supreme Court, the revenue of a current year cannot be used to pay accounts of previous years unless there be a surplus. We think the rule is well stated in *State ex rel. v. Johnson*, 162 Mo., 1. c. 629, as follows:

"It was then anticipated that, though the county court might not issue warrants in excess of the levy for a year's current expenses, and that a creditor might rely upon the fact that his contract was within the amount of revenue levied and provided, and trust to the power of the State to enforce its taxes, still it might happen from some unforeseen cause enough of the estimated amount of revenue might not be collected to pay all the warrants drawn against it in anticipation. Under such circumstances it has never been ruled that such a creditor's warrant was absolutely void and extinguished by the non-payment in the year in which it was drawn. On the contrary, this court has often said in no uncertain terms that it was valid and payable out of any surplus revenue in the hands of the county treasurer that might arise in subsequent years. (Randolph v. Knox County, 114 Mo. 142; Andrew County v. Schell, 135 Mo. loc. cit. 39; State ex rel. v. Payne, 151 Mo. loc. cit. 673; Railroad Co. v. Thornton, 152 Mo. 570; State ex rel. v. Allison, 155 Mo. loc. cit. 344; and on this point, Reynolds v. Norman, 114 Mo. 509.)

"Accordingly we answer the first proposition in the affirmative: that a warrant valid when issued is not rendered invalid because the revenue provided to pay it is not collected during the year for which it was issued, or is misappropriated by the officers of the county for whose act the holder of the warrant is not responsible."

Therefore, it is our conclusion that the bills which have been presented for services and contracts carried out for the county during the year 1937, may now be paid out of any funds, remaining or coming into the treasury, of 1937 revenue, in accordance with the priority of classes as was budgeted by the county for the year 1937.

Respectfully submitted,

OLLIVER W. NOLEN  
Assistant Attorney-General

APPROVED:

---

J. E. TAYLOR  
(Acting) Attorney-General

OWN:EG