

TOWNSHIP ORGANIZATION: Outstanding warrants from the road and bridge fund of 1937-38-39 cannot be paid from the general revenue fund at this time. At the close of the fiscal year warrants may be paid out of any revenue remaining or from surplus or back taxes.

May 24, 1941

Honorable Arthur U. Goodman, Jr.  
Prosecuting Attorney  
Dunklin County  
Kennett, Missouri



Dear Sir:

This department is in receipt of your letter of May 14, 1941, wherein you make the following inquiry:

"Dunklin County operates under the township organization law, and one of our townships has outstanding a number of Road & Bridge Fund Warrants for 1937, 1938, 1939 and 1940. Its road and bridge fund is depleted, but it has ample money in its general fund at this time.

"I would like to know if any of these road & bridge fund warrants can be paid out of the general fund."

The legal presumption is to the effect that when warrants are outstanding, payable out of a certain fund, that only the revenue of that fund can be used for the retirement of the warrants. If there are outstanding warrants from previous years, the only method by which the warrants can be paid is by back taxes or a surplus after all warrants and obligations of the current year have been met.

We think the decision of State ex rel. v. Johnson, 162 Mo. 621, and later followed and approved in the decision of Douglas County v. Bank of Ava, 333 Mo. 1195, l. c. 1200, is applicable wherein it was held that a county warrant valid when issued is not rendered invalid because the revenue provided to pay it is not collected during the year in which it was issued; that the surplus

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county revenue remaining after the payment of all current expenses of every kind for the year for which such revenue was levied and collected, may be used in the payment of outstanding valid unpaid county warrants for previous years. We think this decision is applicable in the case of a township. Therefore, if at the close of the fiscal year there remains any surplus or there are any funds in the general revenue fund of the township which is not obligated or there are no other outstanding warrants which should be paid from the general revenue fund, the outstanding warrants for 1937-38 for the road and bridge fund may be paid from said general revenue fund, and in addition thereto, as stated above, any surplus from the current year resulting in the road and bridge fund may be used to pay the warrants; likewise, funds resulting from back or delinquent taxes.

Respectfully submitted

OLLIVER W. NOLEN  
Assistant Attorney General

APPROVED:

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VANE C. THURLO  
(Acting) Attorney General

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