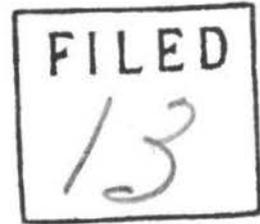


COUNTY TREASURERS, WARRANTS: Treasurer should not pay warrants upon which judgments have been rendered.

June 13, 1945



Honorable Chas. B. Butler  
Prosecuting Attorney  
Doniphan, Missouri

Dear Mr. Butler:

The Attorney General acknowledges receipt of your letter of June 2, 1945, in which you make the following request for an opinion:

"A little more than ten years ago the Standard Printing Company of Hannibal, Missouri, sued Ripley County on county warrants and obtained a judgment for about ten thousand dollars.

"The judgment is now barred by the Statute of Limitations. The County Treasurer of this county now has about four thousand dollars that could be paid on part of the warrants for which the judgment was rendered. The Statute of Limitations on county warrants does not begin to run until the money is in the treasury to pay the warrant. The question I would like to have your opinion on is this: If these warrants on which a judgment has been rendered are presented to the County Treasurer after the Statute of Limitations has run against the judgment, should the treasurer pay the warrants."

By Section 13831, R. S. No. 1939, the county court is authorized to order its clerk to issue a warrant when it ascertains that a sum of money is due from the county. In the

case of International Bank of St. Louis v. Franklin County, 65 Mo. 105, the Supreme Court in discussing a county warrant very aptly and with brevity described the nature of a warrant at l. c. 112:

"\* \* \* In short, it is to all intents and purposes the promissory note of the county. Abundant authorities, if indeed authorities are needed where the expression of the legislative will is so plain, sustain this position. \* \* \*"

Also, in the case of Steffen v. Long, 165 Mo. App. 254, the following is found at l. c. 258:

"A warrant is, in legal effect, a promissory note."

However, it is non-negotiable and title passes only by assignment. American Employes Ins. Co. v. Manufacturers & Mechanics Bank, 85 S. W. (2d) 174; Section 15834, R. S. Mo. 1939.

As a county warrant is similar to a promissory note the rules of law applicable to judgments on promissory notes should govern the question you ask.

The general rule regarding the effect of reducing a cause of action to judgment is stated as follows in Vol. 30, American Jurisprudence, page 903, Section 150:

"One effect of a judgment is to merge therein the cause of action on which the action is brought, from the date of the judgment."

This rule has been followed in several Missouri cases, among these cases are McKnight v. Taylor, 1 Mo. 282; Crim v. Crim, 162 Mo. 544, l. c. 554; and State ex rel. Noe v. Cox, 19 S. W. (2d) 695, from which the following quotation is taken at l. c. 699:

"The rule or principle of law announced by this court in the cited cases is recognized by respondents, for the opinion of respondents recites: 'Technically speaking, a valid judgment upon a note merges the cause of action which existed upon the note into the judgment,

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and recovery must then be had upon the judgment and not upon the note.' But the opinion of respondents does not declare the validity of the Illinois judgment. In truth, the ultimate ruling and judgment of the respondent Court of Appeals, directing judgment to be entered for plaintiff upon the notes, seemingly indicates that the respondents reached the conclusion that the Illinois judgment is invalid, and therefore that such invalid judgment did not merge the cause of action upon the notes. Such is evident from the following recitals contained in respondents' opinion: 'If a former suit had been filed and an invalid judgment rendered on these notes, the recovery in this case should be upon the notes. If the judgment were valid, the recovery should be upon the judgment.' \* \* \*"

Under this rule the debt owed by Ripley County to the Standard Printing Company, which was evidenced by county warrants, merged into the judgment on the warrants. The warrants then ceased to be evidence of the indebtedness, being superseded by the judgment. A new warrant could have been issued to pay the judgment but the old one would no longer be effective for the purpose of withdrawing funds from the county treasury.

#### Conclusion

If the warrants upon which judgments have been rendered are presented to the county treasurer, the treasurer should not pay the warrants.

Respectfully submitted,

W. O. JACKSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General