

ARMORIES:
MUNICIPAL CORPORATIONS:
POWER TO LEVY TAXES FOR
MAINTENANCE OF SAME:

Municipal corporations, for the purpose
of maintaining armories owned by the
state, may levy taxes, or with the consent
of two-thirds of the legal voters thereof
issue bonds for that purpose.

May 31, 1940

6-1



Honorable Lewis M. Means
The Adjutant General
Jefferson City, Missouri

Dear Sir:

This is in reply to your request of the 2nd th,
which is in the following language:

"The Missouri National Guard is engaged
in the construction of National Guard
armories at various town in Missouri
where National Guard units are located.
These armories are built in cooperation
with the State of Missouri through the
Missouri National Guard, the Federal
WPA, jointly with a local sponsor in
the community, either the City, the
County or some Civic organization.
The title of the real estate is vested
in the State of Missouri for the use
and benefit of the Missouri National
Guard.

"In Maryville, the City of Maryville
contemplates voting a bond issue in
order to raise their pro rata share
of funds for the construction of the
armory. The City attorney has raised
a question of law as to whether or not
a City can legally vote bonds, payment
for which is assessed the tax payers
over a period of years for payment on
a building constructed and titled in
the name of the State of Missouri.

"An opinion is requested of the At-
torney General; First, Can a City
legally authorize an issuance, sale
and use of money derived from the

sale of the bonds for the building of an armory titled in the name of the State for the use of the Missouri National Guard. Second, in the event the Attorney General rules this action can be legally done, request information on proper procedure."

The powers and duties of cities, towns and villages are derived from the statutes applicable to such municipal subdivisions. Referring to the Revised Statutes of Missouri pertaining to the subject of the authority of municipal corporations to support and maintain armories we find that Section 7213, R. S. Missouri 1929, provides as follows:

"All cities, towns, villages and counties in this state are hereby given power and authority to build or acquire, by purchase, lease, gift or otherwise, suitable armories, drill halls and headquarters, and the land necessary therefor, for such organizations of the national guard of Missouri as may be stationed or located therein, and to provide for the maintenance and repair of the same."

Section 7214, R. S. Missouri 1929, provides as follows:

"In case any organization of the national guard of Missouri now or hereafter occupies any armory, drill hall or headquarters not owned or leased by the city, town, village or county wherein it is located, such city, town, village or county is hereby given power and authority to provide for the maintenance and repair of such armory, drill hall or headquarters."

Section 7215, R. S. Missouri 1929, provides as follows:

"The term 'maintenance,' as used in sections 7213 and 7214, shall include light, water, heat, fuel, power, ice and the wages of janitors, armorers and other employes necessary for such armories, drill halls and headquarters."

Said Section 7213 authorizes such cities to acquire suitable armories, etc. Section 7217, R. S. Missouri 1929, which refers to the authority of cities to incur indebtedness for the purpose of carrying out its powers and duties, provides as follows:

"The various cities, towns and villages in this state, whether organized by special charter or under the general laws of the state, may contract a debt or debts in excess of the annual income and revenue for any such year, for any purpose authorized in the charter of such city, town or village, or by any general law of the state, upon the assent of two-thirds of the legal voters of such city, town or village voting at an election held for that purpose: Provided, such indebtedness so to be contracted shall not, with the existing indebtedness of such city, town or village, exceed in the aggregate five per cent. on the value of the taxable property therein, to be ascertained by the assessment next before the last assessment for state and county purposes previous to the incurring of such indebtedness; and provided further, that the proper authorities of every such city, town or village incurring such indebtedness shall, before or at the time of doing so, provide for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also to constitute a sinking fund for the payment of

May 31, 1940

the principal thereof, within twenty years from the time of contracting same."

It will be seen that this section authorizes such cities, after they have been empowered by two-thirds vote of the voters, to contract debts in excess of their annual revenue and to issue bonds in payment of same.

The question which you submit is whether or not the city may issue bonds for money to be used for the purpose of paying for the building of an armory titled in the name of the state for the use of the Missouri National Guard.

This department, by an opinion dated August 4, 1938, written to Honorable Wayne V. Slankard, Prosecuting Attorney, Neosho, Missouri, ruled that county courts may give or convey lands of the county to the state for armories. We also refer you to our opinion dated January 4, 1938, as to the manner of accepting titles to armories. We are enclosing a copy of the Slankard opinion for your information, and refer you to the opinion of January 4th to your department for further information.

By Section 7 of Article XIII of the Missouri Constitution it is provided the General Assembly shall provide for the safe-keeping of the public arms, military records, banners and relics of the state.

Referring back to said Section 7213, it seems that the lawmakers have intended that cities, towns, villages and counties are authorized to build armories. This section also authorizes such subdivisions to maintain them under the reasoning followed in the Slankard opinion, and under the authorities herein cited it seems that if the city or county would be authorized to acquire lands for an armory and place a building thereon and then convey it to the state for an armory, then they may place the building for the armory on such lands which belong to the state. Since the armory is strictly for a public purpose and it is placed on lands which are held by the state, there can be no question but that

Hon. Lewis M. Means

(5)

May 31, 1940

moneys expended thereon by a city would not be in conflict with the provisions of the Constitution which prohibits public funds from being expended for other purposes than public purposes.

In the case of *Dysart v. City of St. Louis et al.*, 11 S. W. (2d) 1045, the question of the authority of that city to issue bonds for the purpose of purchasing an airport was before the court and the court held such issuance was authorized and that the expenditure was for a public purpose.

So long as the city stays within its constitutional limit on the amount of its levy and the amount of bonded indebtedness, we think the city would be acting within its authority in issuing bonds for the payment of a building for an armory regardless of the fact of whether or not the title to the lands upon which the armory is placed is in the State of Missouri for the use of the National Guard.

As to the procedure for voting the bonds, we refer you to Sections 7218, 7219, 7220 and 7221, R. S. Missouri 1929, and as to the manner in which the title should be taken to the lands for the armory, we refer you to Laws of Missouri 1933 at page 251.

CONCLUSION.

From the foregoing it is the opinion of this department that moneys expended for the building of an armory are moneys expended for public purposes, and that cities, towns and villages, under the provisions of the Constitution and the statutes of this state, are authorized to vote bonds and to levy and to collect taxes for the purpose of building such armories.

Respectfully submitted

APPROVED:

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