

March 17, 1972

OPINION LETTER NO. 90
Answer by Letter - Cole

Honorable Norman L. Merrell
Missouri Senate
Room 431 Capitol Building
Jefferson City, Missouri 65101



Dear Senator Merrell:

This is in answer to your request for an opinion asking whether a fourth class city in Missouri may issue general obligation bonds for the purpose of financing municipal litigation concerning conservation of the potential water supply of such city.

We are enclosing Opinion No. 3, rendered on January 19, 1972, which we believe answers your question. That opinion holds that municipal library districts have the authority to issue general obligation bonds for the purpose of constructing library buildings and facilities within their districts even though there is no statute providing for the issuance of bonds by such districts.

Article VI, Section 26(b) of the Missouri Constitution, quoted on page two of that opinion provides that any city can become indebted in an amount not to exceed five per cent of the value of taxable tangible property in the city by vote of two-thirds of the voting electorate.

The attached opinion notes that in previous cases, the Missouri Supreme Court has considered whether the purposes for which indebtedness was to be incurred were public purposes. Our judgment is that Section 79.390, RSMo, giving cities of the fourth class power to "establish, make and regulate public wells, cisterns and reservoirs of water and provide for filling the same" would make such a city's expenditure on litigation to conserve potential water supplies a public purpose as called for in these cases.

Honorable Norman L. Merrell

It is consequently our view that a city of the fourth class in Missouri can call an election and upon assent of two-thirds of the qualified electors of such city voting thereon issue general obligation bonds for the purpose of financing litigation in which the city is engaged, including attorney fees and fees of expert investigation and testing, where the litigation concerns conservation of potential water supply of said city.

Very truly yours,

JOHN C. DANFORTH
Attorney General

Enclosure: Op. No. 3
1/19/72, O'Halloran