

December 2, 1971

OPINION LETTER NO. 70  
Answer by letter-Wood

Honorable Robert A. Young  
Senator, District 24  
3500 Adie Road  
St. Ann, Missouri 63074



Dear Senator Young:

You have requested my opinion on the following questions:

- "1. Can the City of St. Louis divest its ownership of Lambert Field to a City of St. Louis-State of Illinois Joint Airport Authority? Consider the fact that Lambert Field is at its present worth by the use of revenue bonds and revenue bonds may remain outstanding at the time of divestment.
- "2. Can the City of St. Louis issue revenue bonds to build a transportation terminal complex, within its boundaries, which will be owned and operated by a City of St. Louis-State of Illinois Joint Airport Authority?
- "3. Can the City of St. Louis enter into an agreement with the State of Illinois, which will create an authority, which will issue revenue bonds for constructing and improving airport facilities both in the State of Missouri and the State of Illinois?
- "4. May the City of St. Louis, or the mayor or the City of St. Louis and the governor of the State of Illinois, enter into any compact, part of the arrangement being

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turning Lambert Field over to a joint St. Louis-Illinois Airport Authority, once a new airport is built, without permission of the Missouri Legislature or a vote of the people. If a vote of the people is required, would this require a vote of all of the people of Missouri or a vote only of the people of the City of St. Louis."

The opinion in Dysart v. City of St. Louis, 11 S.W.2d 1045 (Mo. banc 1928) states that at the primary election on August 7, 1928, the citizens of St. Louis approved the issue of bonds in the sum of \$2,000,000 for the acquisition, improvement and development of an airport. The transcript filed with the Supreme Court in that case reflects that these were general obligation bonds.

The transcript filed with the Supreme Court in the case of McDonnell Aircraft Corp. v. City of Berkeley, 367 S.W.2d 498 (Mo. 1963) reflects that, as of 1960, the total investment of the City of St. Louis in Lambert-St. Louis Municipal Airport was \$21,000,000 which sum was derived from the sale of general obligation bonds (\$16,000,000) and from the sale of an aircraft assembly and testing plant to McDonnell Aircraft Corporation. This record also reflects that, as of 1960, the voters of the City of St. Louis had approved a revenue bond issue of \$10,000,000 to be used exclusively for airport purposes.

We understand your first question to inquire if the City of St. Louis can terminate its sole ownership of Lambert Airport in favor of a joint ownership of the airport by the State of Illinois and the City of St. Louis so long as revenue bonds of the City of St. Louis used to extend or improve Lambert Airport remain outstanding.

Our Opinion No. 504 to you on December 16, 1970, expressed the view that Article VI, Section 27 of the 1945 Constitution conditions the use of municipal revenue bonds for an airport upon the exclusive ownership of the airport by the municipality. It appears and we assume it to be a fact that the City of St. Louis has sold its revenue bonds and used the proceeds for development of Lambert Airport subsequent to the adoption of Article VI, Section 27 in 1945. We are therefore of the opinion that the City of St. Louis must exclusively own Lambert Airport.

Your second question is whether the City of St. Louis can issue revenue bonds for construction of a transportation terminal complex that will be jointly owned and operated by a City of St. Louis-State of Illinois Joint Airport Authority. We think it can only be logically concluded that a "transportation terminal complex" owned and operated by an airport authority is within the

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meaning of the constitutional term "airport" as used in Article VI, Section 27, and we are accordingly of the opinion that such a complex, so financed, must likewise be entirely owned by the City of St. Louis.

Your third question is whether the City of St. Louis and the State of Illinois can, by agreement, create an authority, and issue revenue bonds in the name of the authority for constructing and improving airport facilities owned by the authority in the States of Illinois and Missouri.

The Board of Alderman of the City of St. Louis ". . . may vest jurisdiction for the construction, improvement, equipment, maintenance, and operation . . . [of an airport] in any suitable officer, board or body of such city, . . ." (Section 305.210, RSMo 1969). The board may also ". . . contract and cooperate . . . with other states . . . for the planning, development, construction, acquisition or operation of any public improvement or facility . . . [if] the subject and purposes of any such contract or cooperative action . . . [is] within the scope of the powers of . . . [the City of St. Louis] . . ." (Section 70.220, RSMo 1969; and see Section 305.170, RSMo 1969). Since it is not within the scope of the powers of the City of St. Louis to use the proceeds of its revenue bonds for an airport not entirely owned by the city, we do not believe the city can contract or cooperate with the State of Illinois for the planning, development, construction, acquisition or operation of jointly owned airport facilities that are to be funded to any extent by revenue bonds of the City of St. Louis.

Your final question is whether permission of the Missouri legislature or a favorable vote of the people of Missouri or the people of the City of St. Louis is a necessary condition to the transfer by the City of St. Louis of ownership and control of Lambert Airport to a joint St. Louis-State of Illinois Airport Authority. It is our opinion that the City of St. Louis may not with or without a referendum so divest itself of sole ownership of Lambert Airport because the airport was procured, at least in part, through revenue bonds of the city authorized by Article VI, Section 27, Constitution of Missouri, 1945.

Yours very truly,

JOHN C. DANFORTH  
Attorney General