

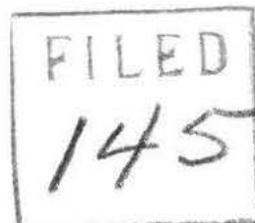
AIRPORTS: County may issue bonds for acquiring an airport and for erecting buildings thereon and for equipping said airport for the purpose for which it was constructed.

BONDS:

June 2, 1964

OPINION NO. 145

Honorable Douglas Mahnkey  
Prosecuting Attorney  
Taney County  
Forsyth, Missouri



Dear Mr. Mahnkey:

In your letter of March 25, 1964, you state that the County Court of Taney County intends to hold a bond election to develop an airport, the bond money to be used for:

- (1) Purchase of real estate;
- (2) Building a landing strip; and
- (3) Such buildings necessary for shop and office space.

You question whether the money may be used for any purpose other than the purchase of the real estate under Sections 305.200 and 305.210, RSMo 1959, relating to "Airports".

Section 305.210, provides that a county, having established an airport, may construct, improve, equip and maintain the same and that the expense of such construction, improvement, equipment and maintenance shall be a county charge. Because Section 305.200(3) does not expressly provide that money from the bonds may be used for construction of buildings and facilities and equipping such buildings, you raise the question as to whether construction and equipment is within the intended purpose of said section.

First, we note the quite broad language of Section 305.200(3), as follows:

"The purchase price \* \* \* of any real or personal property or any easement or use

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therein acquired for an airport \* \* \*  
may be paid for wholly or in part from  
the proceeds for the sale of bonds. \* \*"

Article VI, Section 26(b), Constitution of Missouri, 1945, as amended November 4, 1952, confers upon a county the authority to incur indebtedness " \* \* \* for state or county purposes \* \* \* ." This section, as a part of the Constitution of 1875 (Article X, Section 12) was held to be self-enforcing in State ex rel. Gilpin v. Smith, 96 S.W. 2d 40, and permits a county to incur an indebtedness for any county public purpose if authorized by a two-thirds vote of the people voting at an election on such proposition if such indebtedness be within the amount permitted by the Constitution. This authority granted by the Constitution may not be limited by any rule of statutory construction.

In 1928, the Supreme Court of Missouri, en banc, in Dysart v. City of St. Louis, 11 S.W. 2d 1045, held that a municipality might acquire land for an airport as a "public purpose" by virtue of the Constitution of 1875, Article X, Sections 3 and 11. A citizen brought the suit to restrain the city from issuing the bonds previously voted. The Supreme Court held that the city could properly issue the bonds and build the airport because it was a public purpose.

In 1929, the Legislature passed an Act authorizing cities and counties to acquire and operate airports. Laws of 1929, page 276.

The six sections in the Laws of 1929 are practically the same as the sections of our statute now under consideration.

Under these sections the county is authorized to acquire the property under Section 305.200. The use of the language in Section 305.200(3), "The purchase price \* \* \* of any real or personal property \* \* \*" indicates a legislative intent to use the most all-inclusive language. The construction of runways or buildings involves the purchase of personal property and when put into its intended use becomes real property. The purchase of office equipment, tools, machines

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and other items necessary to make the airport function is personal property. These purchases all are within the legislative contemplation and intent. Under Section 305.210, it is authorized to "construct, improve and equip the airport." It was clearly the purpose of the Legislature when this Act was originally enacted in 1929, and later revised in 1943, to provide that the bond money be used for erecting buildings and equipping them.

The case of State ex rel. Davis v. Barber, 190 So. 809 (Fla.), holds that where bonds were issued to erect, construct, furnish and equip a courthouse, the structure was not complete until there was added "other essential adjuncts that are a component part of the completed structure and without which it would be useless. \* \* \*"

The word "equip" has been held to mean, "to provide all that is necessary for a successful undertaking." Polliak v. Smith, 88 A. 2d 351, 353, 19 N.J. Sup. 365.

In Moore v. Gordon, Texas Civil Appeal, 122 S.W. 2d 239, 242, and in Peter Kiewit Sons Company v. State of North Dakota, 116 N.W. 2d 619, 622, the court held that an "airport" is a tract of land adopted and maintained for the landing and take-off of aircraft and at which facilities for their shelter, supply and repair are provided.

Our courts have universally held that in interpreting statutes, we must consider their primary purpose as well as the history of the legislation.

Rector v. Tobin Construction Co., 351 S.W. 2d 816, 1.c. 822, states:

"In construing a statute we must seek to gather the intent of the legislature from the ordinary meaning of the words used, considering the whole Act and its legislative history. \* \* \*"

(Emphasis Added.)

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The Supreme Court of Missouri, in *Re Tompkins' Estate*, 341 S.W. 2d 863, 1.c. 872, has set out the following rules to be used in interpreting the legislative intent: (1) The object sought to be obtained and the evil sought to be remedied by the Legislature; (2) The legislative purpose should be assumed to be a reasonable one; (3) Laws are presumed to have been passed with a view to the welfare of the community; and (4) It was intended to pass an effective law, not an ineffective or insufficient one.

When the Legislature passed these statutes, it authorized the acquisition and construction as well as the equipping of airports and declared such projects to be legal county public purposes.

#### CONCLUSION

We are of the opinion that Taney County, when authorized by a two-thirds vote authorizing the issuance of bonds, can issue bonds for the purpose of acquiring by purchase an airport and may construct buildings and facilities thereon, and may equip them in such a manner as is necessary for the maintenance and operation of said airport under the provisions of Sections 305.170 to 305.220, RSMo 1959.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, O. Hampton Stevens.

Yours very truly,

  
THOMAS F. EAGLETON  
Attorney General