

February 26, 1968

Opinion No. 158
Answered by Letter -
Duff

Honorable Will W. Davis
Director
Missouri Tourism Commission
308 E. High
Jefferson City, Missouri 65101



Dear Mr. Davis:

This letter is in response to the following question:

"Is the proposed plan of joint advertising by Pepsi Cola and the State Tourism Commission constitutional?"

The plan in question proposes that the state spend approximately \$34,000 to pay part of the cost of the media used.

We consider this advertising campaign to be spending public money on a private corporation. This money would help advertise Pepsi Cola. The State Legislature, and therefore all State agencies, is without authority to grant or spend public money to aid a private individual or corporation except in specified circumstances.

Section 38a, Article III, Constitution of Missouri, 1945, states as follows:

"The general assembly shall have no power to grant public money or property, or lend or authorize the lending of public credit, to any private person, association or corporation, excepting aid in public calamity, and general laws providing for pensions for the blind, for old age assistance, for aid to dependent or crippled children or the blind, for direct relief, for adjusted

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compensation, bonus or rehabilitation for discharged members of the armed services of the United States who were bona fide residents of this state during this service, and for the rehabilitation of other persons. Money or property may also be received from the United States and be redistributed together with public money of this state for any public purpose designated by the United States."

Section 39, Article III, Constitution of Missouri, 1945, states:

"The general assembly shall not have power:

"(1) To give or lend or to authorize the giving or lending of the credit of the state in aid or to any person, association, municipal or other corporation; * * *."

Therefore, we hold that the State is forbidden by its constitution to spend public money in an advertising campaign that would help advertise Pepsi Cola.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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