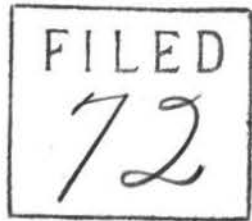


CONSTITUTION: Section 14, Article X, Constitution of Missouri,
should not be withdrawn.

January 28, 1944



Honorable Howard C. Potter
Member, Constitutional Convention
State of Missouri
Jefferson City, Missouri

Dear Mr. Potter:

This will acknowledge receipt of your letter of January 14, 1944, wherein you requested an opinion from this department. Your opinion request reads as follows:

"As a member of the Constitutional Convention, I introduced a proposal, No. 313, which had as its purpose to repeal certain sections of the Article on Taxation, Article X of the Constitution of Missouri. Among these sections sought to be repealed was Section 14 of Article X.

"It was my thought that Section 14 could be omitted entirely and nothing enacted in lieu thereof. The basis for this thought being that there were no outstanding bond issues which were not provided for in the amendment to the Constitution now authorizing said bond issues which are now outstanding and the further fact that if Section 43 did not provide for the payment of principal and interest of future bond issues, the payment of principal and interest of future bond issues could be provided for in the Constitutional provisions or statutory enactments approved by the people authorizing these future issues.

"After I presented the matter to the Committee on State Finance, they asked me to get some further information along this

line. I would like to have the benefit of your opinion as to the fact of the omission from the Constitution of what is now Section 14 of Article X."

Section 14 of Article X of the Constitution of Missouri, provides as follows:

"The tax authorized by the sixth section of the ordinance adopted June sixth, one thousand eight hundred and sixty-five, is hereby abolished, and hereafter there shall be levied and collected an annual tax sufficient to pay the accruing interest upon the bonded debt of the State, and to reduce the principal thereof each year by a sum not less than two hundred and fifty thousand dollars; the proceeds of which tax shall be paid into the state treasury, and appropriated and paid out for the purposes expressed in the first and second subdivisions of section forty-three of Article IV of this Constitution. The funds and resources now in the State interest and State sinking funds shall be appropriated to the same purposes; and whenever said bonded debt is extinguished, or a sum sufficient therefor has been raised, the tax provided for in this section shall cease to be assessed."

Section 43 of Article IV of the Constitution of Missouri, provides as follows:

"All revenue collected and moneys received by the State from any source whatsoever shall go into the treasury, and the General Assembly shall have no power to divert the same, or to permit money to be drawn from the treasury, except in pursuance of regular appropriations made by law. All appropriations of money by the successive General Assemblies shall be made in the following order:

"First, For the payment of all interest upon the bonded debt of the State that may become due during the term for which each General Assembly is elected.

"Second, For the benefit of the sinking fund, which shall not be less annually than two hundred and fifty thousand dollars.

"Third, For free public school purposes.

"Fourth, For the payment of the cost of assessing and collecting the revenue.

"Fifth, For the payment of the civil list.

"Sixth, For the support of the eleemosynary institutions of the State.

"Seventh, For the pay of the General Assembly, and such other purposes not herein prohibited as it may deem necessary; but no General Assembly shall have power to make any appropriation of money for any purpose whatsoever, until the respective sums necessary for the purposes in this section specified have been set apart and appropriated, or to give priority in its action to a succeeding over a preceding item as above enumerated."

In your letter requesting an opinion you inferred that Section 43, cited above, provided for the payment of principal and interest of future bond issues and that its provisions would take the place of Section 14 which you desire to omit from the new Constitution. We cannot agree with this idea, since we do not feel that Section 43, supra, is self-enforcing. It will be noticed that the title of this section of the Constitution is as follows:

"Appropriations, order of, must be by law--revenue to go into treasury."

It is our opinion that Section 43, supra, is merely a provision providing that all money received by the State shall go into the treasury of the State and shall be appropriated in a certain manner and we do not feel that it can be taken as having the same effect as Section 14 of Article X, supra.

You further state in your request for an opinion that if Section 43, aforesaid, does not provide for the payment of the principal and interest of future bond issues, that such provision could be made in the constitutional provisions or statutory enactments approved by the people authorizing future issues. We agree with you that the people of this State can by an election authorize the payment of the principal and interest on bond issues in the manner in which you state and if in the submitting of the question to the electorate a provision was included as to the payment of the principal and interest of the bonds, then Section 14 of Article X, supra, would be an unnecessary provision. However, we must assume, if this provision is deleted from the Constitution, that in the submission of any future bond issues to the public that a provision relative to the payment of the principal and interest will be included. However, it is possible that in later years that there may be a submission of a bond issue to the public at which time there has been no provision of the kind in question attached.

Conclusion

Therefore, it is the opinion of this department that in view of the above that Section 14, Article X, should not, under the present law, be deleted from the Constitution of the State of Missouri.

Respectfully submitted,

JOHN S. PHILLIPS
Assistant Attorney-General

APPROVED:

ROY MCKITTRICK
Attorney-General

JSP:EG