

**Constitutionality, of House Bill No. 3. House Bill No. 3,
Constituticonality of.**

An appropriation to support the Forestry School provided for in House Bill No. 3 is germane to the establishment of the school. House Bill No. 3, in its present form, is constitutional.

February 4th, 1913.

Hon. J. E. McNally,
Chairman Committee on Appropriations,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication of the 30th ult., to the following effect:

"I herewith inclose House Bill No. 3. I ask that you tender the committee on appropriations a decision as to whether or not this bill and all bills of similar character would be legal, or would it be necessary that a special bill be drawn, carrying an appropriation to meet the requirement or intent of the bill."

The bill referred to does not specify the fund out of which the appropriation is made. Though it is advisable, in my opinion, to designate the fund out of which the appropriation is made (Sec. 32, Art. V; Secs. 10 and 12, Art. XII, of the Constitution) a failure so to do does not render the bill unconstitutional.

Proll v. Dunn, 80 Cal. 220, 22 Pac. 143.

State v. Westerfield, 23 Nev. 468, 49 Pac. 119.

Goodykootz v. People, 20 Colo. 374, 38 Pac. 473.

I call your attention, however, to the further provision of the constitution, Sec. 33, Art. V.:

"The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject."

It is obvious that House Bill No. 3 does not comply with the above provision relating to "general appropriation bills," since it embraces matter other than the appropriation. It is, therefore, to be tested by the last sentence above quoted, to-wit: "All other appropriations shall be made by separate bills which embrace but one subject." I find that it has long been the practice in this state to include a special appropriation in a bill creating an office or requiring

certain things to be done. I find further that though the words "one subject," as used in this section of our constitution, have never been defined by the Supreme Court of this State, the same words, "one subject," are used in Sec. 23, Art. V, and have been by our supreme court frequently defined to mean a general subject and all matters germane thereto.

State v. McKinney, 29 Mont. 380, 74 Pac. 1096.

See Footnotes under Sec. 23, Art. V of the Constitution
in Revised Codes of 1907.

I am inclined to give to the words "one subject," as used in Sec. 33, the same definition that the court has given the same words used in Sec. 23 of the same article. Plainly, an appropriation to support the forestry school is germane to the establishment of the school, and I am, therefore, of the opinion that the bill in its present form is constitutional.

People v. Dunn, 13 Am. St. Repts., 118, 22 Pac. (Cal.) 140.

In re House Bill 168, 39 Pac. (Colo.) 1096.

Very truly yours,

D. M. KELLY,
Attorney General.