

**Constitutionality, of House Bill No. 113. House Bill No. 113,
Constitutional.**

House Bill No. 113, making an appropriation of \$2,000 to defray expenses of commission to participate in the celebration of the Fiftieth Anniversary of the Battle of Gettysburg, is constitutional.

February 27th, 1913.

His Excellency,
Samuel V. Stewart,
Governor of Montana,
Helena, Montana.

Sir:

I beg to acknowledge receipt of your communication under this date, requesting my opinion upon the constitutionality of House Bill No. 113, being a bill for an act entitled "An Act providing for the appointment of a commission to participate in the celebration of the Fiftieth anniversary of the battle of Gettysburg, and appropriating the sum of \$2,000.00 to defray the expenses thereof."

Our constitution provides that taxes shall be levied "for public purposes only" (Sec. 11, Art. XII), and forbids the state from making any donation or grant to any individual or association (Sec. 1, Art. XIII). Construing these provisions together, it appears that the legislature can make an appropriation of the public money only for public purposes.

See also 36 Cyc. 886 and 894.

Is the celebration of the fiftieth anniversary of the battle of Gettysburg such an event that an appropriation therefor may be deemed an appropriation for a public purpose? In my opinion, it is.

I call your excellency's attention to the case of *Russ v. Commonwealth*, 210 Pa. 544, 1 L. R. A., N. S. 409. This case arose out of the following circumstances. The Legislature of Pennsylvania decided to attend the dedication of the monument erected to the memory of General U. S. Grant in New York, and authorized a committee to make arrangements therefor. It required about six hours to make the trip from Harrisburg to New York, and Mr. Russ was engaged by the committee to furnish to the legislators entertainment on the trip. The entertainment consisted of, approximately, \$1,600.00 worth of table supplies, and \$4,000.00 worth of wines, liquors and cigars. Mr. Russ was then compelled to sue in order to collect. Among other objections to his claim, it was urged that these items were

not properly expenditures for a public purpose, but the Supreme Court of Pennsylvania took the view that this was a proper method of paying honor to the great soldier, and held that the expenditures were made for a public purpose.

To the same effect, see 36 Cyc. 894.

Daggett v. Colgan, 92 Cal. 53, 28 Pac. 51; 27 Am. St. Repts., 95; 14 L. R. A., N. S. 474.

Also, Note to Russ v. Commonwealth in 1 L. R. A., New Series, 409.

In my opinion the celebration of the fiftieth anniversary of the battle of Gettysburg is an event as important to the public, and as patriotic in character as was the unveiling of the monument to General Grant in New York in 1897.

You are therefore advised that, in my opinion, the bill making an appropriation therefor is constitutional.

Very truly yours,

D. M. KELLY,
Attorney General.