

Mortgages—Constitution — Amendments — Title — Statutes.

Chapter 23, session laws of 1923, amending section 8291 R.C.M. 1921, violates section 23 of article V of the constitution of Montana, insofar as it attempts to include legislation relating to conditional sales contracts, since that subject is not expressed in the title of either the original or amendatory act.

Hon. John E. Erickson,
Governor of Montana,
Helena, Montana.

January 31, 1927.

My dear Governor Erickson:

You have requested my opinion whether chapter 23 of the session laws of 1923, amending section 8291, R. C. M. 1921, violates the provisions of section 23 of article V of the constitution of Montana.

The section referred to provides that "No bill * * * shall be passed containing more than one subject which shall be clearly expressed in its title."

Lewis Sutherland on Statutory Construction, section 169, says:

"When the title of the amendatory act specifies the section or sections to be amended, the weight of authority is that the amendment must be germane to the subject matter of the sections specified."

In *People vs. Parvin*, 16 Pac. 490, the supreme court of California says:

"Under pretense of amending a particular section the legislature cannot legislate upon a subject not expressed in the title of the original act."

Before its amendment by chapter 23 of the session laws of 1923 section 8291 dealt only with the subject matter of selling or removing mortgaged property. The amendment of 1923 added to said section a provision relating to the subject of conditional sales contracts. This additional subject was not expressed in the title of the act nor was there anything in the title of either the original section or the amendatory act relating to the matter of conditional sales contracts.

It is therefore my opinion that so much of chapter 23, supra, as relates to the subject of selling or removing property covered by conditional sales contracts is void, as in violation of the above constitutional provision.

Very truly yours,

L. A. FOOT,
Attorney General.