

**Opinion No. 74****Constitutional Law—Titles.**

**HELD:** That Chapter 127, Laws of 1931, creating a game preserve in Musselshell County, is unconstitutional by reason of its defective title in so far as any part of the metes and bounds description is within Fergus County.

February 13, 1933.

I have your letter regarding the title to Chapter 127, Laws of 1931. Your question is whether this title violates the provisions of section 23 of article V of the Constitution.

The title to this act specifically states that the purpose of the act is to create a game preserve in Musselshell County. Then it describes the boundaries of the preserve in section 1 of the act, a large portion of which is contained in Fergus County. No mention is made of Fergus County either in the title of the act or in the body of the bill.

Section 23 of Art. V provides as follows:

"No bill, except general appropriation bills, and bills for the codification and general revision of the laws, shall be passed containing more than one subject, which shall be clearly expressed in its title; but if any subject shall be embraced in any act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed."

The case most nearly in point under the facts you have submitted is that of *State ex rel. Foot v. Burr, et al.*, 73 Mont. 586, in which the Court said:

"\* \* \* The purposes of this limitation have been declared so often that any extended discussion of the subject at this time would be a work of supererogation. Stated briefly, those purposes are to restrict the legislature to the enactment of laws the subjects of which are made known to the lawmakers and to the public, to the end that anyone interested may follow intelligently the course of pending bills; to prevent the legislators and the people generally being misled by false or deceptive titles, and to guard against the fraud which might result from incorporating in the body of a bill pro-

visions foreign to its general purpose and concerning which no information is given by the title. (Citing cases).

"The language of the Constitution is too plain to admit of doubt as to its meaning. It means just what it says: The title of a bill must express clearly the subject treated in the body of the bill. The title to Chapter 93 is, 'an Act to amend Section 4318 and 4327 of the Revised Codes of the State of Montana 1921, relating to changing the boundaries of Fergus and Judith Basin counties.' As observed heretofore, Section 4318 defines the boundaries of Fergus county as they existed on March 5, 1921, but prior to the enactment of Chapter 93, Section 4318 had spent its force and was not in effect on March 10, 1925, for by the creation of Petroleum county out of the eastern portion of Fergus county, the boundaries of Fergus county as given in that section had been changed completely. Furthermore, throughout Chapter 93 there is not a suggestion that Petroleum county was to be affected; no reference is made to the public property belonging to that county, nor to the obligations which it had incurred and were outstanding. Indeed, Petroleum county is not mentioned in the entire Act, and a person, even though he be a skilled engineer, not personally familiar with the location of the lower Musselshell River and with the location of the township and range lines on the ground, must employ a map and township plans and make a critical examination of the description contained in Section 1 of Chapter 93 with reference to the map and plats, in order to ascertain that Petroleum county has been affected in the least. However, by the use of a map and the plats and by following critically the metes and bounds given in Section 1, it will be found that Petroleum county was completely swallowed up,—its entire area included within the boundaries of Fergus county. Can it be said, then, reasonably, that the title 'An Act to amend Sections 4318 and 4327 of the Revised Codes of the State of Montana 1921, relating to changing the boundaries of Fergus and Judith Basin counties, expresses clearly, or at all, a legislative purpose to abolish Petroleum county? To ask the question is to answer it in the negative."

What was said by the Court here is clearly applicable to Chapter 127, Laws of 1931, and in my opinion the act would be unconstitutional insofar as any part of the metes and bounds description is within Fergus county.