

No. 87

APPROPRIATIONS, Special Funds—STATE PARK FUND

Held: State Park Fund, created under Section 5, Chapter 48, Laws of 1939, may be expended for purposes designated without biennial appropriation, and is not abolished by Chapter 14, Laws of 1941.

April 21, 1941

Mr. Rutledge Parker
State Forester
Missoula, Montana

Dear Mr. Parker:

You inquire as to whether or not, in the coming biennium, funds received under Section 5, Chapter 48, Laws of 1939, may be used for the purposes therein set forth, relating to state parks. Your question is prompted by doubt that might arise by the passage and approval of Chapter 14, Laws of 1941, transferring various special funds to the state general fund, and House Bill 380, Laws of 1941, the general appropriation bill which fails to appropriate these funds for state parks.

A careful examination of the provisions of Chapter 14, Laws of 1941, fails to disclose any language susceptible to an interpretation whereby the fund created by Section 5, Chapter 48, Laws of 1939, commonly referred to as the state park fund, is to be placed in the general fund. We, therefore, conclude that such special fund has not been abolished.

Turning to the question as to whether it was necessary for the 1941 Legislature specifically to appropriate these funds, it becomes important to examine Section 5, Chapter 48, Laws of 1939, under which the fund is created. That Section provides:

"Section 5. Fees and Charges; State Park Fund. The Commission shall have power to levy and collect reasonable fees or other charges for the use of such privileges and conveniences as may be provided, and to grant such concessions as it may deem advisable. All moneys derived from the activities of the Commission, and from unconditional gifts, donations, bequests and endowments, shall be deposited in the state treasury to the credit of the state park fund, which fund is hereby created, and shall constitute a continuing fund to be used and expended by the Commission for any of the purposes of this Act."

It is clear the funds are to be used for state park purposes only. Any objection to the effect—that by this section an appropriation is made for a longer term than two years, and, therefore, in violation of Section 12, Article XII of the Montana Constitution—is not well founded. The Act has only to do with special funds to arise from the operations authorized in connection therewith. The funds are devoted to a special purpose.

State ex rel. Normile v. Cooney, 100 Mont. 391, 47 Pac. (2nd) 637;

State ex rel. Veeder v. State Board of Education, 97 Mont. 121, 33 Pac. (2nd) 516;

State ex rel. Bickford v. Cook, 17 Mont. 529, 43 Pac. 928.

I conclude, therefore, that the state park fund may be used for the purposes designated without a specific appropriation of such fund every two years.

Sincerely yours,

JOHN W. BONNER
Attorney General