

Opinion No. 82**University of Montana—Gifts To Unit Thereof—All-Denominational Chapel—Non-Denominational Chapel—Danforth Foundation—Donee Institution—State Board of Education—Acceptance By**

Held: Montana State College may properly use legal gift, regular in all respects, for the construction of an all-denominational chapel provided that no preference shall be given to any religious denomination or mode of worship which would violate Section 4 of Article III of the Montana Constitution.

January 19th, 1950.

Mr. George A. Selke
Chancellor, University of Montana
State Capitol
Helena, Montana

Dear Mr. Selke:

I have your communication of December 28, 1949, inquiring as to the legality of the construction of a non-denominational chapel at any of the units of the University of Montana. Your request is prompted by a gift to Montana State College from the Danforth Foundation for the construction of a small chapel.

Leaving aside for the moment the main question as to the use of the gift it is necessary at the outset that the gift be made and accepted in the proper manner. Such gift must be made in the legal name of the Donee Institution as set out in Section 75-311, Revised Codes of Montana, 1947, (formerly Section 851, Revised Codes of Montana, 1935) and must be accepted by the State Board of Education as provided by Sub-Division 11 of Section 75-107, Revised Codes of Montana, 1947, (formerly Section 836, Revised Codes of Montana, 1935). From the in-

formation contained in your letter it appears that the above mentioned requirements have been fulfilled in the instant case.

I am also of the opinion that Montana State College may properly use such gift for the construction of an all-denominational chapel. The all-denominational feature is important in view of the provision of Section 4 of Article III of the Montana Constitution to the effect that no preference shall be given by law to any religious denomination or mode of worship. The spirit of such provision can be kept inviolate only if all departments of State Government and State Institutions obey its mandate.

I believe that the construction and utilization of such a chapel will be a fine thing for the College and that except as stated above there are no restrictions upon such an undertaking. The cases on record in other jurisdictions have held that the construction of a chapel at an educational institution under similar circumstances was within the limits of the law.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.