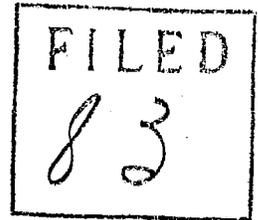


APPROPRIATIONS: An appropriation act which does not distinctly specify the amount and purpose of the appropriation without reference to any other law is unconstitutional.

CONSTITUTIONAL LAW:

November 13, 1946



11/25

Honorable Forrest Smith  
State Auditor  
Jefferson City, Missouri

Attention: Mr. E. E. Ragland  
Chief Clerk

Dear Sir:

This acknowledges your request, which is as follows:

"Section 1, of House Bill 1035, provides for transfer of two million dollars from the Missouri Postwar Fund to County Aid Road Fund to be apportioned to the several counties of the state for certain purposes.

"I would like to have your official opinion, if the phrasing in this section is such that it appropriates the money from the County Road Aid Fund."

Replying thereto, the House Committee Substitute for House Bill No. 1035, which is the appropriation act in question, provides as follows:

"There is hereby appropriated out of the State Treasury chargeable to the Missouri postwar reserve fund the sum of Two Million (\$2,000,000.00) Dollars, and the said sum of Two Million (\$2,000,000.00) Dollars is hereby transferred and set apart to the county aid road fund to be apportioned to the several counties of the state for the purpose of aiding and assisting counties in the improvement, construction, reconstruction and restoration of county roads as provided in Committee Substitute for

House Bill No. 214, an Act of the 63rd General Assembly, approved July 23, 1946; for the period beginning July 1, 1946 and ending June 30, 1947."

There are several sections of the 1945 Constitution bearing on this question. Section 36 of Article III provides, among other things:

"All revenue collected and money received by the state shall go into the treasury and the general assembly shall have no power to divert the same or to permit the withdrawal of money from the treasury, except in pursuance of appropriations made by law."

Section 15 of Article IV of the 1945 Constitution requires the state treasurer to hold such money for the benefit of the respective funds to which they belong and disburse them as provided by law.

Section 23 of Article IV of the 1945 Constitution provides:

" \* \* \* \* Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

Section 23 of Article IV, supra, does not appear to have been followed in the drafting of said appropriation act, being House Committee Substitute for House Bill No. 1035.

It will be observed that this appropriation act appropriates two million dollars out of the state treasury "chargeable to the Missouri postwar reserve fund." Then it seeks to direct that said two million dollars be "transferred and set apart to the county aid road fund to be apportioned to the several counties of the state for the purpose of aiding and assisting counties in the improvement, construction, reconstruction and restoration of county roads as provided in Committee Substitute for House Bill No. 214, \* \* \* \*." If that part of said Section I, as follows, to wit, "as provided in Committee Substitute for House Bill No. 214, an Act of the 63rd General Assembly, approved July 23, 1946," were left out of said appropriation act, then the appropriation act, absent other defects, would be to appropriate this two million dollars "for the purpose of aiding and assisting counties in the improvement, construction, reconstruction and restoration of county roads," which would leave

the field wide open for expending said money on any county roads, and that was not the intent of the Legislature in passing said appropriation act. It was evidently the intent of the Legislature that said money should only be used in the improvement, construction, reconstruction and restoration of county roads that fall within the classes provided for in Section 3 of Committee Substitute for House Bill No. 214, which are subdivided into five classes as follows:

"FIRST: County roads which are used for all of the following purposes: School bus routes, mail routes, milk routes.

"SECOND: County roads which are used for any two of the following purposes: School bus routes, mail routes, milk routes.

"THIRD: County roads which are now used for any one of the following purposes: School bus routes, mail routes, milk routes.

"FOURTH: County roads which may be used, if improved or restored, for any one or more of the following purposes: School bus routes, mail routes, milk routes.

"FIFTH: Any other county road, provided consideration shall be given to the number of farms served by said road and the amount of traffic on said road."

It further appears that it was evidently the intent of the lawmaking body that no part of said two million dollars should be expended on any of said five classes unless the County Court gave consideration, "FIRST, to all-weather county roads which have deteriorated and are in need of restoration or reconstruction, SECOND, to dirt or non-all-weather county roads, and, THIRD, to any other county roads."

It further appears to be the intent of the Legislature that said funds be restricted so that not more than seven hundred and fifty dollars per mile or fifty per cent of the total cost of the county projects, whichever is less, shall be expended out of said funds so appropriated and that the various other provisions of Committee Substitute for House Bill No. 214 should be complied with as conditions precedent to the actual payment of the funds so appropriated.

Honorable Forrest Smith

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It will be seen that it becomes necessary to refer to Committee Substitute for House Bill No. 214 in order to determine the meaning of House Committee Substitute for House Bill No. 1035, and that is prohibited by Section 23 of Article IV of the new Constitution which says that every appropriation law shall distinctly specify the amount and purpose of the appropriation "without reference to any other law to fix the amount or purpose."

Conclusion.

It is our opinion that Committee Substitute for House Bill No. 1035 is unconstitutional and void.

Very truly yours,

DRAKE WATSON  
Assistant Attorney General

APPROVED:

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J. E. TAYLOR  
Attorney General

DW:ml