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The Honorable Mike Strasser  
Idaho House of Representatives  
STATEHOUSE MAIL

Dear Mike:

In your letter of March 23, 1987, you question whether S1223, commonly known as the tort reform bill, violates art. 3, sec. 16, of the Idaho Constitution. That provision provides:

Unity of subject and title. --- Every act shall embrace but one subject and matters properly connected therewith, which subject shall be expressed in the title; but if any subject shall be embraced in an act which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be embraced in the title.

At issue here is whether the act, by embracing elements of tort reform and changes to the insurance laws of Idaho, violates the prohibition on an act combining two subjects. For the reasons set forth below, it is my conclusion that the statute in question would likely pass constitutional matters challenged on these grounds.

Early Idaho cases strictly construed this constitutional provision. For example, in Hailey v. Huston, 25 Idaho 165, 136 P 212 (1913), the Idaho Supreme Court invalidated an act that combined an appropriation to the librarian of the state historical society with an increase in the librarian's annual salary. Similarly, in Pioneer Irrigation District v. Bradley, 8 Idaho 310, 68 P 295 (1908), the court held that acts having two or more subjects diverse in their nature and having no necessary connection with each other were unconstitutional and void.

Later pronouncements by the court somewhat clarified and liberalized the standards applicable to this constitutional provision. In Cole v. Fruitland Canning Association, 64 Idaho 505, 134 P.2d 603 (1943), the court held that art. 3, sec. 16, must be reasonably construed and that acts need only treat one "general" subject expressed in a "general" title. Therefore, if each of the act's parts are arguably necessary for and relate to the accomplishment of the objects of the act, there would be no constitutional violation. See also AFL v. Langley, 66 Idaho 763, 168 P.2d 831 (1946).

In this case, the common object treated by S1223 is the crisis in the liability insurance area which is addressed by resolving problems with the civil justice system and related insurance practice and reporting statutes. Under the case law cited it is my conclusion that our court would likely find that both subjects could be legitimately combined to treat the common object. Please advise me if I can be of further assistance.

Very truly yours,



PATRICK J. KOLE  
Chief, Legislative and  
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PJK/kjb