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Maryland’s “Some Single Work, Object Or Purpose” Clause: Keystone Of The Power Of The Executive Branch Over Appropriations

Panitz v. Comptroller¹

Ferguson v. Goldstein²

Appropriation bills are a subject which generates little excitement except in those directly concerned with their drafting and passage. For the most part they are technical pieces of legislation, barely comprehensible to the layman. However, such legislation is extremely important for one very simple reason — it is the means by which the state expends public funds.

In Maryland, the subject of appropriation bills is thoroughly regulated by the state Constitution. The budgetary process in Maryland is governed by Sections 32 and 52 of Article III of the Constitution. The history of the appropriation process in Maryland prior to the enactment of Section 52 shows clearly that the introduction of that section was intended to delegate to the executive the primary

responsible for planning the fiscal policies of the state. In this respect, Maryland may be characterized as a "strong executive" state.

Under Article III, Section 32, no money may be drawn from the treasury except by an appropriation. Under Article III, Section 52(2), "Every appropriation bill shall be either a Budget Bill, or a Supplementary Appropriation Bill..." Section 52 of Article III provides for an executive budget plan whereby the Governor is required to submit a complete plan of proposed expenditures and estimated revenues (the budget), along with a bill for all proposed appropriations of the budget (the budget bill). The General Assembly cannot increase any of the items in the budget bill, other than those for the judiciary and the General Assembly, but it can strike out or reduce items contained therein, except those for the state debt, for public schools, for payment of certain salaries, and for the judiciary. The budget bill apparently must comply with the general "one subject" provision of the Maryland Constitution, which is applicable to all state legislation.

Accordingly, every budget bill must "embrace but one subject, which must be described in its title."
Supplementary appropriation bills are initiated by the legislature itself to provide funds for purposes not included in the budget bill. These bills are limited by the Maryland Constitution "to some single work, object or purpose therein stated." This constitutional limitation, an integral part of the budget scheme, is designed as a further safeguard to prevent the legislature from encroaching upon the executive initiative in budgetary affairs, while at the same time permitting enactment of necessary additional appropriations not provided for in the "complete plan" budget. The 'separate bill' and 'single purpose' provisions were obviously intended better to illuminate the whole process of legislative initiative in the appropriation field (the inherent evils of which were well-known) and to enable the Executive more effectively to exercise his veto powers under Article II, Section 17, of the Constitution.

In addition to the budget bill and the supplementary appropriation bill, Article III, Section 52 provides a third method of appropriation, the "emergency appropriation," which may be enacted at a special session of the Maryland General Assembly convened by the Governor. The budgetary process outlined in Article III, Section 52, was adopted in 1916 by an amendment to the state Constitution. The amendment was drafted by a special commission formed to overhaul the state's funding mechanism. Prior to the adoption of the budget amendment, the appropriation process was almost entirely a legislative function; the budget amendment provided for the first time a mechanism by which the state executive could effectively project the fiscal requirements of the state. The practice under the previous system was hardly conducive to the establishment of responsible fiscal policies; because of logrolling and pork-barrel legislative practices, the state often found itself faced with deficits. The budget amendment was

10. Brief for Appellants at 13, Panitz v. Comptroller, 247 Md. 501, 232 A.2d 891 (1967): Just as the constitutional and statutory requirements for a "complete plan" are designed to insure that the goals of an executive budget system are not undermined by supplemental budgets, so the requirement that supplementary appropriation bills embrace only one work or subject, is designed to prevent the plan of the budget system from being undermined by such bills. The purpose of the restriction on supplementary appropriation bills, as other states have recognized, is not merely to guard against legislative log-rolling, but also to guard against fragmentation of the governor's fiscal program and resulting dilution of responsibility.
13. H. Miles, The Maryland Executive Budget System 7 (1942): "The present State Constitutional Budget System was established ... through an Amendment to the State Constitution proposed by Chapter 159 of the Acts of the General Assembly of Maryland of 1916. The Amendment was ratified by the voters of the State on November 7th, 1916 ... ."
14. Id.: "The Budget Amendment was drafted by a special commission appointed by the Democratic State Convention held in Baltimore in September, 1915. The Commission ... was headed by the late Dr. Frank J. Goodnow, President of Johns Hopkins University."
designed to minimize the possibility of such deficits by placing the budgetary initiative in the hands of the executive and by limiting the ability of the legislature to encroach upon that initiative. The latter purpose is accomplished by the "single work, object or purpose" clause.

Maryland is one of twenty-one states which include in their constitutions provisions limiting the scope of supplementary appropriation bills to some single subject or object. Those states which do not have such provisions apply to supplementary appropriation bills the "general one-subject" clause, which is applicable to all state legislation and which is a part of almost every state constitution. Under the general provisions, courts have indicated a willingness to liberally construe the requirement of one subject; where the court can see that the legislation has reference to one general topic which is capable of treatment as a unit, the constitutional requirement is usually deemed to have been satisfied. While the general one-subject provision of the Maryland Constitution has been the subject of extensive litigation, as have those of most other states, in relatively few instances has an act been declared invalid because it embraced more than one subject.

The "single work, object or purpose" provision has as one of its purposes the prevention of what is commonly referred to as "logrolling" and "pork-barrel" legislation. Where entire discretion for initiation of appropriation measures is centered in the legislature, such practices are prevalent. Members of the legislature, in their desire to insure

land for the Legislative Session of 1916); H. MILES, THE MARYLAND EXECUTIVE BUDGEr SYSTEM 9 (1942):

The old method often witnessed "logrolling" or "you help me and I'll help you" tactics among many of the members of the Legislature in their efforts to insure passage of the particular appropriations in which they had some selfish or political interest. It was not unusual for excessive appropriations to result from such tactics and also from the pressure of political and professional lobbyists; and, almost as frequently, some of the most important activities or needs of the State were either overlooked or sadly neglected in what was commonly termed, the "Pork Barrel" scramble.

16. ALA. CONST. art. IV, § 71; ARiz. CONST. art. IV, pt. 2, § 20; ARK. CONST. art. V, § 30; CAL. CONST. art. IV, § 34; Colo. CONST. art. V, § 32; FLA. CONST. art. III, § 30; GA. CONST. art. III, § 7; ILL. CONST. art. IV, § 16; LA. CONST. art. IV, § 9; MD. CONST. art. III, § 52; MISS. CONST. art. IV, § 69; MONT. CONST. art. V, § 33; Neb. CONST. art. III, § 22; N.M. CONST. art. IV, § 16; N.D. CONST. art. III, § 62; OKLA. CONST. art. V, § 56; Ore. CONST. art. IX, § 7; PA. CONST. art. III, § 15; S.D. CONST. art. XII, § 2; W. VA. CONST. art. VI, § 51; WYO. CONST. art. III, § 34.


18. See Merrill, Legislation: Subject, Title and Amendment, 13 NEB. L. BULL. 95 (1935).


passage of measures which are of special concern to their own constituents, often overlook or disregard the fiscal realities of the state as a whole. To insure passage of bills that would doubtless fail of passage on their own merits, such measures are "tacked" onto appropriation bills even though they clearly have no connection with the appropriation under consideration. Such practices are even more deleterious in effect when each of several members agree to vote for the others' measures. In this manner any number of "riders" can be attached to an appropriation bill and be assured of passage.

The "single work, object or purpose" limitation on supplementary appropriation bills has other advantages. Since an appropriation bill by its very nature would seem to be concerned with the appropriation of money, legislators should not have to be concerned with provisions in such bills relating to extraneous matters; if freed from outside considerations, legislators will be able to devote their energies to considering the merits of the appropriation itself. If a supplementary appropriation bill is merely what its name imports, legislators should not be expected to search each bill for subjects other than the setting aside of moneys for a specified purpose. Thus, "single subject" provisions are designed to protect the state treasury from legislative raids accomplished by the insertion into appropriation bills of matters which might pass unnoticed, and to assure the public that the attention of the legislature will not be diverted from the important matter of appropriations by the inclusion of other matters.

**Panitz and Ferguson**

In *Panitz v. Comptroller*, the Maryland Court of Appeals, interpreting the "single work, object or purpose" clause for the first time, held that the Cooper-Hughes Act, a supplementary appropriation bill, was a violation of that clause. The Cooper-Hughes Act contemplated an increase in the state income tax and the appropriation of part of the expected increase in revenue for a state police fund, for teachers' salaries and pensions, for school construction and aid programs, and for outright grants to political subdivisions. The formula generally used for distribution of the funds differed greatly in its impact on the subdivisions. As pointed out by the court "... the vari-

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23. See Sellers v. Frohmiller, 42 Ariz. 239, 24 P.2d 666 (1933); Davis v. State, 7 Md. 151 (1854); State *ex rel.* Whittier v. Safford, 28 N.M. 531, 214 P. 759 (1923); State *ex rel.* Lucero v. Marron, 17 N.M. 304, 128 P. 485 (1912); Commonwealth *ex rel.* Greene v. Gregg, 161 Pa. 582, 29 A. 297 (1894).


26. See, e.g., *State ex rel.* Hueller v. Thompson, 316 Mo. 272, 289 S.W. 338 (1926).

27. See *State ex rel.* Whittier v. Safford, 28 N.M. 531, 214 P. 759 (1923).


ances in the grants suggest that the typical opportunities for 'logrolling' and 'back scratching' were present and significant.

While Panitz held that the act was invalid as a supplementary appropriation bill, it also indicated that it was prima facie valid as legislation, and suggested that the General Assembly, at a special session, could validly make appropriations from the increased revenue to carry out the several works, objects and purposes of the act. The effect of the decision in Panitz was, then, to require the General Assembly to adhere to certain constitutional procedural requirements, but ostensibly not to prevent the legislature from carrying out its desired purposes in another manner.

Following the suggestion of the court in Panitz, the Governor convened a special session of the General Assembly, at which the provisions of the Cooper-Hughes bill were enacted as an emergency appropriation. However, the General Assembly was not to have the last word on the subject, for in Ferguson v. Goldstein, the Circuit Court for Montgomery County declared the emergency appropriation invalid as violative of the "single work, object or purpose" provision. The court based its decision on the conclusion that an emergency appropriation bill is itself a supplementary appropriation bill and, therefore, is subject to the "single work, object or purpose" requirement. Because Section 52(2) mentions only two types of appropriation bills, the budget bill and the supplementary appropriation bill, the court

31. 247 Md. at 510, 232 A.2d at 896. Under the formula for allocation of the police protection funds, Queen Anne’s County, with about 2% of the population of Baltimore City, received less than one-third of 1% of the allocation to Baltimore City for such purpose. Under the formula for allocation of funds for school building construction, Baltimore City received about 12% of the total funds, Queen Anne’s County received about 2% of the Baltimore City allocation, and Calvert County, with a smaller population than Queen Anne’s County, received more than 5% of the Baltimore City allocation. Id. at 510, 232 A.2d at 896. See also Brief for Appellants at 15-16, Panitz v. Comptroller, 247 Md. 501, 232 A.2d 891 (1967).

32. In its per curiam order the Court of Appeals stated: That the General Assembly of Maryland, at a Special Session, can validly and effectively make appropriations from as much of the revenues to accrue to the State for the ensuing fiscal year by virtue of the said Chapter 142 [the Cooper-Hughes Act] as have not already been appropriated by Chapter 199 of the Laws of 1967 (The Budget Bill) in order to permit the effectuation of the several works, objects and purposes of said Chapter 142 as therein set forth and specified. 247 Md. at 503, 232 A.2d at 892.


(1) The General Assembly could have initiated such measures on its own motion by way of a revenue bill and general law, which could have moved ahead of the budget bill, enabling the Governor to put the necessary appropriations in a supplemental budget as contingent appropriations; 2) the General Assembly could have passed the appropriations as separate supplementary appropriations bills, including in each a graduated income tax sufficient to pay the appropriation contained in the bill, together with a provision that the tax be cumulative with other graduated taxes enacted at the legislative session; 3) the matter could have been (and still can be) dealt with at an extraordinary session of the General Assembly, as an emergency appropriation, free of the single purpose restriction by reason of the exemption in Article III, § 52(14).

The Ferguson decision obviated alternative number three. See note 36 infra and accompanying text.

34. Note 32 supra.


reasoned, an emergency appropriation, obviously not part of the budget, must be a supplementary appropriation bill. The Ferguson court refused to let the legislature circumvent the constitutional limits placed on appropriation bills initiated by the legislature simply by enacting an otherwise invalid bill at a special session.

**Court Interpretation of Similar Provisions in Other State Constitutions**

There are essentially four different types of limiting clauses encountered in the constitutions of the twenty-one states which have provisions restricting the contents of supplementary appropriation bills. One type is the "single work, object or purpose" clause contained in the Maryland Constitution. The second, and most common type of provision limits the general appropriation bill to appropriations for the expenses of the departments of the state, for interest on the public debt, and for public schools, with the further requirement that all other bills making appropriations embrace but one subject or object. Most of the cases decided under this type of provision have been concerned with the permissible contents of the general appropriation bill, rather than "other" appropriation bills which must be limited to one subject or object. Apparently, when construing general appropriation bills under this type of provision, there is less left to judicial construction than when the court is called upon to construe a supplementary appropriation bill. The terms of the constitutional provision

37. See note 16 supra.
38. States with such a provision are: Ala., Ariz., Ark., Colo., Ga., La., Miss., Mont., N.M., N.D., Okla., Pa., S.D., and Wyo. For citations, see note 16 supra. E.g., Mont. Const. art. V, § 33: "The general appropriation bills shall embrace nothing but appropriations for the ordinary expenses of the legislative, executive and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject." The New Mexico Constitution also contains the following provision: "Every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied." N.M. Const. art. IV, § 30.
39. In Sellers v. Frohmiller, 42 Ariz. 239, 24 P.2d 666 (1933), the general appropriation bill in one section provided for the position of secretary to the governor and in another section appropriated a salary for the position. The Arizona Constitution limits the general appropriation bill to appropriations for the different departments of the state, for state institutions, for public schools, and for interest on the public debt. Ariz. Const. art. IV, pt. 2, § 20. The court remarked that provisions which are incidental to or explanatory of a particular appropriation may be included in the general appropriation bill; however, the court held that the bill violated the constitutional requirement, because the appropriation was merely incidental to the legislation it was intended to carry out — the appointment of a secretary to the governor. See also State v. Angle, 54 Ariz. 13, 91 P.2d 705 (1939). Where the act before the court is a general appropriation bill, there are several questions that may have to be decided by the court. Once again it becomes largely a problem of legislative construction, for the courts may be called upon to determine what the framers meant by "ordinary expenses", "current expenses of state institutions", and of what the various branches of the government consist. See, e.g., State ex rel. Lucero v. Marron, 17 N.M. 304, 128 P. 485 (1912); State ex rel. Oster v. Jorgenson, 81 S.D. 447, 136 N.W.2d 870 (1965). For the purposes of this Note the legislative construction accorded these terms is important only insofar as it indicates a tendency on the part of the courts to construe, either narrowly or broadly, the permissible contents of appropriation bills. The courts seemingly apply to general appropriation bills the same tests of "germane" and "incidental" provisions as have been applied to special appropriation bills.
limit the permissible subjects of a general appropriation bill; the only issue is whether a given provision in such a bill is "incidental" to these permissible subjects. All "other" appropriation bills must be considered on their own merits, without the narrow topical restrictions placed upon the general appropriation bill, but with all the uncertainties accompanying a determination of what constitutes one subject or object.

The third type of provision applicable to appropriation bills states that bills appropriating money for certain enumerated purposes shall not contain provisions on any other subject. These specific "purposes" include "salaries of public officers and other current expenses of the state," pay of members of the legislature and "salaries of the government." While this third type of provision does not contain a requirement that all other appropriation bills must embrace but one subject, this does not mean that bills making appropriations for other purposes may contain a plurality of subjects. Appropriation bills for other purposes must at least satisfy the general one-subject requirement. Under this third type of provision it has been held that an act appropriating money for the salaries of officers of the state cannot contain appropriations for any other purpose. In Fergus v. Russell, an act providing for the ordinary expenses of the state government also contained an appropriation for the payment of the salaries of state officers. The contention was made that the phrase "shall contain no provisions on any other subject" in the constitutional provision was to be interpreted as "shall contain no provisions on any subject other than appropriations," thus permitting the inclusion in a general appropriation bill of provisions for the salaries of officers of the state government. The court rejected this contention:

The language employed in this section is plain and unmistakable, and was clearly intended to prevent the making of appropriations for the pay of salaries of officers of the state government in any bill which should contain a provision on any other subject than that of appropriations for the pay of members and officers of the General Assembly and for salaries of officers of the state government.

While under the second type of provision a supplementary appropriation bill can establish a bureau, office or commission, and appro-

40. States with such provisions are: Fla., Ill., Neb., and Ore. For citations, see note 16 supra. See, e.g., ORE. CONST. art. IX, § 7: "Laws making appropriations for the salaries of public officers and other current expenses of the state shall contain provisions upon no other subject." The Illinois and Nebraska constitutions employ slightly different terms than the Florida and Oregon constitutions. ILL. CONST. art. IV, § 16: "Bills making appropriations for the pay of members and officers of the general assembly, and for the salaries of the government, shall contain no provisions on any other subject."

41. ILL. CONST. art. III, § 30; ORE. CONST. art. IX, § 7.

42. ILL. CONST. art. IV, § 16; NEB. CONST. art. III, § 22.

43. Fergus v. Russell, 270 Ill. 304, 110 N.E. 130 (1915).

44. 270 Ill. 304, 110 N.E. 130 (1915).

45. 110 N.E. at 137. See also Lee v. Dowda, 155 Fla. 68, 19 So. 2d 570 (1944); Ritchie v. People, 155 Ill. 98, 40 N.E. 454 (1895); State ex rel Whittier v. Safford, 28 N.M. 531, 214 P. 759 (1923); State ex rel. Lucero v. Marron, 17 N.M. 304, 128 P. 485 (1912).
appropriate funds therefor, under the third type of provision this has not always been permissible. If, however, under the third type of provision, the appropriation is for a purpose other than one of those specified, the courts have interpreted auxiliary provisions as being merely incidental and, therefore, properly included. In Winter v. Barrett, an act imposed a tax upon persons engaged in the retail sale of tangible personal property, provided how the money was to be used and made appropriations from the anticipated revenue. These facts are strikingly similar to those involved in Panits; however, the Illinois court in Winter held that the single "subject" of the act was the tax:

As we have stated, the matter of providing how the money collected from the tax shall be used is clearly related to the subject of imposing and collecting the tax, and making appropriations from the anticipated revenue arising from the tax must also be considered a matter so closely related to the general subject-matter of the act as not to constitute a separate subject within the meaning of the Constitution.

The court in Winter did not decide, as did the Maryland Court of Appeals in Panits, that the purposes for which the money was to be used constituted a plurality of subjects or objects. It is important to note, however, that Winter was decided under the Illinois general one-subject provision. Since the purpose of the bill was not one of those enumerated in the provision applicable to appropriation bills, its subject was governed by the general one-subject provision, and the court followed the usual pattern of broadly construing such a provision.

The most restrictive provision, at least on its face, is that found in the California Constitution. Bills appropriating money, other than the general appropriation bill, must contain only one item of appropriation, and that for one single and certain purpose. Notwithstanding this strict requirement, the California courts have not always agreed as to when an appropriation bill violates this provision. In Murray v. Colgan an act, entitled "An act to encourage the cultivation of ramie in the State of California; to provide a bounty for ramie fiber, and to make an appropriation therefor to appoint a state superintendent of ramie culture, and make an appropriation for his salary," was held to contain two distinct items of appropriation and was there-

46. Hill v. Rae, 52 Mont. 378, 158 P. 826 (1916); State ex rel. Gaulke v. Turner, 37 N.D. 635, 164 N.W. 924 (1917).
47. E.g., Matthews v. People, 202 Ill. 389, 67 N.E. 28 (1903).
48. E.g., Winter v. Barrett, 352 Ill. 441, 186 N.E. 113 (1933).
49. 352 Ill. 441, 186 N.E. 113 (1933).
50. 186 N.E. at 121 (emphasis added).
51. ILL. CONST. art. IV, § 13.
52. See note 18 supra and accompanying text.
53. CAL. CONST. art. IV, § 34, reads, in part: "No bill making an appropriation of money, except the Budget Bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed."
55. 94 Cal. 435, 29 P. 871 (1892).
fore declared invalid. Even though the two appropriations involved served the same purpose, viz. the encouragement of ramie cultivation, the court literally applied the meaning of the constitutional provision and invalidated the act. Because there was more than one item of appropriation, the court felt compelled to declare the act unconstitutional. However, in *Los Angeles v. Post War Public Works Review Board*, the California provision was more liberally construed. The act in question involved an appropriation of ten million dollars for relief of post-war unemployment through a program of public works engaged in by cities and counties. Part of the money appropriated was to be spent for planning, another part for administration, and still another part for the acquisition of sites. Taking the position that the details of expending the money appropriated were so related and incidental to the single purpose of the appropriation as not to violate the constitutional proscription, the court held that the act contained but one item of appropriation, and that for a single purpose. Thus, even though the California constitutional provision relating to supplementary appropriations is similar in many respects to that of Maryland, the California courts have apparently adopted a more liberal construction of the “one item” provision and now permit the legislature to play a more prominent role in the initiation of appropriations.

Although the courts superficially are in agreement as to the purposes to be served by one-subject provisions, they are clearly not unanimous as to what in fact constitutes a violation of such a provision. Disagreement is most noticeable in the different definitions applied to the constitutional terms. “Subject” and “object” have received varying interpretations by the courts. Courts have commonly interpreted the terms “subject” and “object” as synonymous.

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56. 29 P. at 872.
57. 26 Cal. 2d 101, 156 P.2d 746 (1945).
58. *See also* State ex rel. Whittier v. Safford, 28 N.M. 531, 214 P. 759 (1923).
59. *In Metropolitan Water Dist. v. Marquardt*, 59 Cal. 2d 159, 379 P.2d 28, 28 Cal. Rptr. 724 (1963), the view was adopted that the same principles of singleness of subject apply to the general one-subject provision as to the special appropriation provision.
61. *Where a statute sets up a number of special funds for a single purpose, or there are a number of allocations of money from different funds for that one purpose, the allocations, considered together, should be treated as being only “one item of appropriation.”* (The cases of Sullivan v. Gage, 145 Cal. 759, 79 P. 537 (1905) and Murray v. Colger, 94 Cal. 434, 29 P. 871 (1892)) . . . are disapproved insofar as they may be inconsistent with the conclusions we have reached.
indeed, this interpretation seems reasonable in the context in which the terms have been considered. For the most part, this interpretation has been applied in cases construing general one-subject provisions. A more precise analysis of the two terms was provided by an Alabama court: "The 'object' of a law is the aim or purpose of the enactment. . . . The 'subject' of a law is the matter to which it relates and with which it deals." Thus, there is an apparent difference in the requirement of "one subject" and "one object" if a strict reading of the terms is followed. However, no clear differentiation has been made by the courts.

In states with only a general one-subject provision, the question of whether a supplementary appropriation bill contains more than one subject will be tested by the same criteria as would any other legislation. Such states usually apply a liberal interpretation of the one-subject requirement, with a consequent broad reading of "subject" to include anything which reasonably has reference to the general topic of the bill. An interesting problem arises, however, in those states which have both a general one-subject provision and a provision specifically applicable only to supplementary appropriation bills. In such states two possible results may obtain; the liberal construction universally accorded the general one-subject provision may be carried over to the provision relating to supplementary appropriation bills, or a more restricted meaning may be applied to the latter provision. As a practical matter, which construction prevails seems to depend largely on whether the same terms are used in both provisions. In those states which employ the word "subject" in both provisions, a broad meaning is given to the term in both provisions; if a bill does not violate the general one-subject provision, it cannot violate the provision applicable to supplementary appropriation bills. This reasoning, however, has an obvious flaw. The mere fact that there are two separate provisions would indicate that the two provisions were in-

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66. Id.
67. Id.
68. See Merrill, Legislation: Subject, Title and Amendment, 13 Neb. L. Bull. 95 (1935).
69. Compare Constitutional Defense League v. Waters, 309 Pa. 545, 164 A. 613 (1933), with State ex rel. Jensen v. Kelly, 65 S.D. 345, 274 N.W. 319 (1937). In Ritchie v. People, 155 Ill. 98, 40 N.E. 454 (1895), the court reached the conclusion that both Sections 16 and 13 of Article IV of the Illinois Constitution, the special and general one-subject provisions, respectively, were to be given the same meaning because the word "subject" is used in both provisions. Similarly, in Opinion of the Justices, 275 Ala. 254, 154 So. 2d 12 (1963), where both provisions of the Alabama Constitution used the word "subject," the court concluded that the requirement of the two provisions were the same, and stated that "it is clear therefore that if a separate bill meets the broader requirements of [the general one-subject provision] . . . it, of necessity, will satisfy the requirements of [the supplementary appropriation provision]." 154 So. 2d at 15. See also Constitutional Defense League v. Waters, 309 Pa. 545, 164 A. 613 (1933); Commonwealth ex rel. Greene v. Gregg, 161 Pa. 582, 29 A. 297 (1894). But see Cottrell v. Faubus, 233 Ark. 721, 347 S.W.2d 52 (1961).
tended to be interpreted differently. If there was a necessity for a provision applicable specifically to supplementary appropriation bills, it defeats the purpose of such a special provision to construe it in the same fashion as the general one-subject provision. Because of the importance of appropriation bills and the special dangers of logrolling inherent in such bills, the courts would be on a sounder basis if the special provisions were construed more restrictively than the general one-subject provisions. A different result has been reached in those states which use different terms in the two constitutional provisions, in spite of the fact that the words "object" and "subject" have been construed as synonymous when used in general one-subject provisions. In Panitz, for example, the Court of Appeals of Maryland concluded that the terms "subject" and "object" as used in the two provisions should be accorded different meanings. The court stated that the word "object" has often been equated with the word "purpose," and is to be given a more restricted meaning than "subject":

We find no incongruity in giving the "single object" requisites of § 52(8)(a) a much more restricted meaning than the "one subject" requirement of § 29. The construction and effect of § 29 which we have just discussed had long been established when the framers proposed and the voters ratified the single object doctrine of § 52(8). If it had been intended that § 52(8) was to mean what § 29 had been held and was generally understood to mean, certainly the same words of § 29 that already had been construed would have been repeated in § 52. They were not, and other words were substituted to insure, we believe in light of the evil to be corrected and the result sought, that § 52(8) would be given a much narrower and more restricted meaning than had been given § 29.73

73. 247 Md. 512, 232 A.2d at 897. Following similar reasoning, the court in State ex rel. Jensen v. Kelly, 65 S.D. 345, 274 N.W. 319, 323 (1937), reached the same conclusion:

"In some of the state constitutions the word 'object' has been used instead of 'subject.' In the construction of this clause the courts have used the words synonymous [sic]; which, strictly speaking, is not so. The 'subject' of a statute is the matter of public or private concern for which the law is enacted; the object is the aim or purpose of the enactment." . . . It may be presumed that the framers of the Constitution had some reason for using different words in these closely related sections. Considering the matters with which the constitutional provision deals, we believe the word "object" is used in the sense of purpose. The West Virginia Constitution contains the identical "single work, object or purpose" provision as the Maryland Constitution. W. VA. CONST. art. VI, § 51 (c) (1). While the West Virginia general one-subject provision, W. VA. CONST. art. VI, § 30, employs the term "object" rather than "subject" as in the Maryland Constitution, this apparently would not influence the manner in which the West Virginia courts would interpret the "single work, object or purpose" provision, as the courts of that state have indicated that the general one-object provision is not applicable to supplementary appropriation bills. State ex rel. Key v. Bond, 94 W. Va. 255, 118 S.E. 276 (1923). The West Virginia court has not decided the specific question involved in Panitz. The Supreme Court of Appeals of West Virginia has stated, however, that since its budget amendment was based upon that passed earlier in Maryland, it would
Thus, while a Maryland supplementary appropriation bill may be found to satisfy the requirements of Article III, Section 29, the "general one-subject" provision, it may not be sufficient to satisfy the more stringent requirements of Article III, Section 52(8)(a), the "single work, object or purpose" provision.

An examination of case law construing single subject or object provisions applicable to supplementary appropriation bills discloses that the courts use several techniques to justify their conclusion that an act contains but one subject or object. A frequently used technique is to determine whether an act has a unified purpose, and if it does, to uphold the constitutionality of the act even though the methods specified to accomplish that purpose vary. A second technique is to uphold as properly included in a supplementary appropriation bill matters which are clearly "incidental" to or explanatory of a particular appropriation. The most frequently encountered technique is to permit the inclusion of matters which are "germane" to the general subject of the bill: "It is only such matters as are foreign, not related to, nor connected with such subject, that are forbidden. Matters which are germane to and naturally and logically connected with the expenditure of the moneys provided in the bill, being in the nature of detail, may be incorporated therein." These techniques are, in fact, result-oriented. If the court decides to hold that the act in question contains but one subject or object, then one of the above techniques can be regard as most persuasive two decisions of the Court of Appeals of Maryland interpreting the budget amendment. See State ex rel. Trent v. Sims, 138 W. Va. 244, 77 S.E.2d 122 (1953). The two Maryland cases cited as persuasive are Mayor & City Council v. O'Connor, 147 Md. 639, 128 A. 759 (1925), and Dorsey v. Pettit, 178 Md. 230, 13 A.2d 630 (1940). Dorsey discusses Section 52 and interprets its purpose, as does the court in Panitz. While it cannot be stated with absolute certainty, it would seem reasonable to conclude that the West Virginia court would also find the reasoning in Panitz persuasive, and would adopt a similar interpretation.

74. To a large extent these techniques are carried over from the interpretation accorded the general one-subject provision. See 1 J. SUTHERLAND, STATUTORY CONSTRUCTION § 1711 (1943 & Supp. 1968). See also Norton v. Lusk, 248 Ala. 110, 26 So. 2d 849 (1946); State ex rel. Davidson v. Ford, 115 Mont. 165, 141 P.2d 373 (1943); State ex rel. Lucero v. Marron, 17 N.M. 304, 128 P. 485 (1912); State ex rel. Gaulke v. Turner, 37 N.D. 635, 164 N.W. 924 (1917).

75. Horack, Constitutional Limitations on Legislative Procedure in West Virginia, 39 W. VA. L.Q. 294 (1933). The author suggests that perhaps the test is "What does the act intend to accomplish; not how does the act intend to accomplish it." Id. at 304.

76. Norton v. Lusk, 248 Ala. 110, 26 So. 2d 849 (1946); Sellers v. Frohmiller, 42 Ariz. 239, 24 P.2d 666 (1933). Illustrative of what courts consider as "incidental" is the case of State ex rel. Gaulke v. Turner, 37 N.D. 635, 164 N.W. 924 (1917). Plaintiff, an operator of a public elevator and warehouse, was arrested for failure to possess a license as required by law. He contended that the act under which he was charged violated the constitutional requirement that supplementary appropriation bills shall embrace but one subject. The act involved provided for the appointment of a state inspector of grades, weights and measures, established the requirement that public elevator operators obtain licenses, and appropriated $10,000 to put the law into effect. Plaintiff contended that the act was unconstitutional because in addition to the provisions for the grading and inspecting of agricultural products, it provided for an appropriation. However, the court held that the act embraced but one subject — the marketing of agricultural products — and that all else was incidental thereto.

77. State ex rel. Whittier v. Safford, 28 N.M. 531, 214 P. 759, 760 (1923). "'Germane' is defined as meaning in close relationship, appropriate, relevant, or pertinent to the general subject..." 1 J. SUTHERLAND, STATUTORY CONSTRUCTION § 1711 (1943).
used to justify the inclusion of numerous provisions in the act. While such techniques permit a degree of flexibility, they do not provide precise guidelines for the determination of what constitutes a single subject or object.

A RATIONALE FOR Panitz AND Ferguson:
THE EXECUTIVE-INITIATED MARYLAND BUDGET SCHEME

In Panitz v. Comptroller, the Court of Appeals of Maryland reached a result which would certainly not have occurred in most other states. In those states with only a general one-subject provision, the Cooper-Hughes bill would doubtless have been upheld as embracing but one subject, since general one-subject provisions are liberally construed. If an act similar to the one involved in Panitz were to be challenged in states with one-subject or object provisions applicable to supplementary appropriation bills, its fate would largely be determined by the wording of the provision under which it was construed. In the majority of such states it would not fall within the one-subject clause at all, or, if it did, it would be construed, under the liberal interpretation usually accorded such provisions, as satisfying the one-subject requirement. The issue would not even be certain under California's restrictive clause, for it is entirely possible that the anticipated revenue could be construed as one "item" of appropriation, having the single purpose of aid to political subdivisions.

While the Maryland Court of Appeals in Panitz found the proposed Cooper-Hughes Act to be an obvious "logrolling" appropriation bill, and chose to hinge its decision on a strict reading of the "single work, object or purpose" provision, this does not explain why the Maryland provision should be interpreted more stringently than comparable provisions in other states. However, one explanation of why the court in Panitz invalidated the Cooper-Hughes legislation may be found by examining Maryland's appropriation scheme. The requirement that supplementary appropriation bills contain some single work, object or purpose was, in large part, intended to limit the scope of such bills to purposes which are not of such overriding significance that they should, of necessity, be included in the executive budget. An appropriation bill of such magnitude and widespread impact as the Cooper-Hughes Act is of such significance that it should be considered as part of the budget and not be left to legislative initiation.

78. 247 Md. at 515-16, 232 A.2d at 899:
[1] If the framers [of Section 52, Article III] had chosen to illumine their report and recommendation with a classic example of the evils to be cured by the single purpose prescription they might well have thought of and used as such an example the conglomerate that is Ch. 142 of the Laws of 1967 [the Cooper-Hughes Act] — with much smaller numbers of course.

It is clear that the framers of the budget amendment were primarily concerned with preventing just such omnibus bills in aid of local subdivisions. In leaving some scope for supplementary appropriation bills the framers of the amendment made clear that such bills would serve only limited purposes.
Court of Appeals could not but be impressed with the policy issue implicit in the passage of the Cooper-Hughes Act. The executive-initiated scheme of the Maryland budget provisions would appear to require that omnibus appropriation bills, such as the Cooper-Hughes bill, either be enacted as separate bills, each embracing some single work, object or purpose, or as part of the Governor's budget bill. Thus, the Panitz decision was perfectly consistent with the budgetary scheme contemplated by the Maryland Constitution.

Whether the Maryland budget scheme required the result reached in Ferguson, however, is not clear. Panitz indicated that the enactment of supplementary appropriation bills will be scrutinized in light of the executive initiative inherent in the budget provisions. Ferguson extended the applicability of the "single work, object or purpose" provision one step further, and placed yet another restriction on the power of the General Assembly to enact supplementary appropriation bills. If the decision in Ferguson is correct, the General Assembly cannot by-pass the requirement that supplementary appropriation bills be limited to "some single work, object or purpose" by enacting an emergency appropriation bill at a special session of the legislature.

On its face, the reasoning of the court in Ferguson is sound. However, the court failed to address itself to several difficult questions raised by the defendants. While the court may have been correct in its conclusion, based on the reasoning that there are only two possible types of appropriations specified in Section 52(2) of Article III, it failed to resolve the issue of why an emergency appropriation under Section 52(14) should be required to conform to the requirements of Section 52(8) but not to the other provisions of Section 52. It is a question of construction whether the emergency appropriation provision should be divorced from the rest of the budget section as contended by defendants. The Circuit Court for Montgomery County ruled that it should not be so construed, but did not meet defendant's argument that:

The per curiam Order in Panitz, expressly relieving the General Assembly from any obligation to impose a tax to raise the money

80. Budget bills and supplementary appropriation bills.

81. Md. Const. art. III, § 52(14): "... nothing [in § 52] shall in any manner ... be construed as preventing the Governor from calling extraordinary sessions of the General Assembly, as provided by Section 16 of Article II, or as preventing the General Assembly at such ... sessions from considering any emergency appropriation or appropriations."

82. While the Circuit Court for Montgomery County held that an emergency appropriation bill must also meet the requirements of "some single work, object or purpose," it failed to discuss whether an emergency appropriation bill must meet the requirement that it be supported by a tax and that the bill be passed in each house by a majority vote. Memorandum in Support of Demurrer of Defendants at 4, Ferguson v. Goldstein, No. 2392 (Cir. Ct., Montgomery Co., July 9, 1968):

Under subsection (8) a supplementary appropriation bill is subject to four distinct criteria: (1) that it be embodied in a separate bill which is (2) limited to some single work, object or purpose therein stated, (3) be supported by a tax provided in the same bill and (4) be passed in each house by a vote of a majority of the whole number of the members elected. If Senate Bill 1 were subject at all to Section 52(8), then it would be subject to each of the terms set forth above.
needed to support such an appropriation, recognizes the legal fact that emergency appropriations under Section 52(14) are not "supplementary appropriations" under Section 52(8) and, therefore, do not come under the formal requirements of the latter.88

The court, in Ferguson, was apparently struck by the incongruous situation which would result if the emergency appropriation were upheld. If the court had approved the emergency measure, it would have condoned the passage of a bill, identical to that which was found to be inconsistent with the state budgetary scheme in Panitz, merely because the bill was passed by the same legislature sitting under different circumstances. Ostensibly, the court would be permitting the legislature to circumvent the system of executive initiated appropriation simply by passing an otherwise unconstitutional supplementary appropriation bill during a special session. Such a conclusion, however, is misleading. An emergency appropriation bill can be passed only by a special session of the legislature;84 a special session may be convened only by the Governor.85 If the emergency appropriation is of such vital importance that the Governor feels compelled to initiate a special session of the legislature to enact it, the danger of an intrusion upon the budgetary prerogative of the executive, which is the justification for the "single work, object or purpose" clause, is not present; the Governor is necessarily aware of and accountable for measures passed at a special session. For this reason, emergency appropriation bills should not be subject to the restrictions of the "single work, object or purpose" clause.

**CONCLUSION**

The Court of Appeals in Panitz had ample reason to invalidate the Cooper-Hughes Act, an obvious attempt at logrolling, as an unconstitutional supplementary appropriation bill. While in most other states such an act would very likely have been upheld as embracing only one subject, it must be remembered that most states, unlike Maryland, do not constitutionally provide for a comprehensive executive-oriented budget process. In most states the only restriction on supplementary appropriation bills is that they embrace one subject. The constitutions of these states do not demonstrate, in the same manner as the Maryland Constitution, a policy of executive initiative in the budgetary process. The decision in Panitz indicates that two factors led to invalidation of the Cooper-Hughes Act: the patent "logrolling" aspect of the act, and the underlying tacit understanding that the act was an attempted legislative usurpation of executive responsibility for fiscal policies under the terms of the budget amendment. An indis-

83. *Id. at 11.*

84. Md. Const. art. II, § 16, gives the Governor the power to convene the legislature on extraordinary occasions. Md. Const. art. III, § 14, declares that the General Assembly shall convene on a specific day each year "unless convened by proclamation of the Governor."

criminate application of the "single work, object or purpose" requirement led to the decision in Ferguson. The court could have reached a different conclusion had it remembered that a special session of the legislature is initiated and controlled by the Governor and had it, accordingly, chosen to interpret Section 52(14) as being free from the requirements of Section 52(8). It did not choose to do so, and only a future Court of Appeals decision will determine which construction should obtain. In the meantime, it appears from Ferguson that any appropriation other than the budget bill must be limited to "some single work, object or purpose."