

MAINE STATE LEGISLATURE

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June 29, 1931

To the State Auditor
Re: Legislative Expense

The result of our conference, as I understand it, is this: Legislative Orders increasing the stated stipend of legislative employees for regular services will be disregarded where such orders were passed by one House only.

Supplies furnished, repairs incurred, advertising contracted for, and similar items will be paid on the Auditor's certificate.

Extra services rendered out of regular hours and outside of the regular duties of employees fall within this second category. It is up to the Auditor, of course, to check them very carefully and he will naturally be guided to a considerable extent by past practice.

If the Secretary of the Senate submits a statement that a claim is for overtime work in preparing data from the records outside of her regular duties, to be furnished to the Senate Reporter, and that it has been customary to pay the clerk for these services in the past, this would seem to justify the Auditor in approving the bill. The theory is this:

The Legislature appropriated a certain sum for expense of the Legislature of 1931. The items of this expense allocated by joint order of the Legislature must, of course, be paid. The money has been appropriated in due form and left for legislative allocation. Expenditures for supplies actually furnished, repairs actually made and similar items do not require a joint order because the Auditor's certificate brings these payments within the legislative appropriation. Salaries and wages of legislative employees are something which the Auditor should not be asked to pass on. They should be fixed by joint order, thus only in exceptional circumstances such items are within his province to allow or disallow.

In any event it would seem that an order passed merely by one House is ineffective. If the amount covered by the Order is a bonus to an employee, the employee does not get the money. If it covers an expenditure within the province of the Auditor to approve, he may naturally be influenced by the vote as an expression of the sentiment of one of the Houses, but I should say that he would be free to disregard the Order if he were not satisfied that the consideration for the payment was rendered.

If the employee in the instant case gets her pay, it is because she rendered extra unpaid services, not because the Senate ordered payment.

Clement F. Robinson
Attorney General