

Contest For Seat in Legislative Assembly, Expenses of Contest Proper to Be Paid From Appropriation For Contingent Expenses.

It is proper to pay the expenses incident to a contest before

the committee on privileges and elections of the state senate from the appropriation for contingent expenses of the legislative assembly. Such expenses are authorized by law and are proper to be paid from the appropriation for contingent legislative expenses.

February 24, 1911.

State Board of Examiners,
Helena, Montana.

Gentlemen:

With reference to the certificate directed to state auditor Cunningham by the president and secretary of the senate, on February 14th, the same covering items of expense incident to the contest before the committee on privileges and elections of the senate in the contest of W. I. Power against A. R. Dearborn, I have made full examination of the same as requested by you, by the president of the senate and by the state auditor.

You are advised that in my opinion the items of expense are properly authorized by law, and that the same constitute a proper charge to be made against the appropriation for contingent expenses of the twelfth legislative assembly. It seems to me that this holding is entirely consistent with the views expressed by the supreme court in the case of Snyder vs. Cunningham, 39 Mont. 166. The items of expense being authorized by law and the legislature being a separate co-ordinate branch of the government would seem to have full power and authority to incur such expenses and to certify same to the auditor for payment.

However, this being a contingency expense of the legislative assembly, I would respectfully recommend, in order to afford every protection to the auditor, that you give your approval to this claim, as by the auditor requested.

Very truly yours,

ALBERT J. GALEN,
Attorney General.