

**Resolution of House of Representatives, Not Law. Law, Resolution of House of Representatives Not. State Auditor, Should Draw Warrants Only for Salary Claims Authorized by Law. Salaries of Employes of House of Representatives, Cannot Be Affected by Resolution. Salaries, to Be Determined by Law.**

A resolution passed by the House of Representatives purporting to raise the salaries of certain employes of the House above the compensation prescribed by law cannot affect such salaries, and the state auditor should draw his warrant only for such claims as are authorized by law.

February 7th, 1913.

Hon. William Keating,  
State Auditor,  
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your communication under date of February 7th, requesting my opinion as to whether or not certain resolutions of the House of Representatives of the Thirteenth Legislative Assembly which purport to raise the salaries of certain employes of the house above the compensation prescribed by Secs. 79 and 80 of the Revised Codes as amended by Chap. 45 of the Laws of 1909, authorize you to pay these employes the increased salary.

In reply thereto I call your attention to Sec. 28, Art. V. of the Constitution of Montana, which reads as follows:

"The Legislative Assembly shall prescribe by law the number, duties and compensation of the officers and employes of each house; and no payment shall be made from the state treasury, or be in any way authorized to any such person, except to an acting officer or employe elected or appointed in pursuance of law."

Acting under the mandate of the above section of the constitution the Legislative Assembly has heretofore prescribed by law the number, duties and compensation of the officers and employes of each house.

Secs. 62 to 80, Revised Codes of Montana, as amended by Chap. 45 of the Laws of 1909.

"A resolution is not a law."

State ex rel. Peyton v. Cunningham, 39 Mont. 197.

As state auditor you are authorized

"To draw warrants on the state treasurer for the payment of moneys directed by law to be paid out of the treasury, but no warrant must be drawn unless authorized by law and upon an unexhausted specific appropriation provided by law to meet the same."

Sec. 170, Revised Codes of Montana of 1907, Subdiv. 17.

You are therefore advised that the resolutions passed by the honorable house of representatives cannot affect the salaries which should be paid to the employes of the house, and that the amount of such salaries is to be determined from Secs. 79 and 80 of the Revised Codes as amended by the Laws of 1909 above referred to; and you are further advised to draw your warrants only for such claims as are authorized by those sections of the Revised Codes.

Very truly yours,

D. M. KELLY,  
Attorney General.