

Warrants—Auditor—Treasurer—Appropriations.

The fact that in house bill 324, laws 1927, the legislature inadvertently directed the state "treasurer" instead of the state auditor to issue warrants does not invalidate the bill nor deprive the state auditor of the power to issue said warrants.

L. J. Goodman, Esq.,
Clerk of State Board of Examiners,
Helena, Montana.

April 15, 1927.

My dear Mr. Goodman:

You have requested my opinion whether the fact that house bill 324 authorizes the state treasurer to draw his warrant for certain moneys leaves the state auditor without authority to issue such a warrant, or defeats the intent of the bill.

House bill 324 of the recent session of the legislature appropriates \$4200 for the payment of a certain claim of Catharine Smith. After making the appropriation the act continues "and the State Treasurer is hereby authorized and directed to draw his warrants on the General

Fund, monthly on the first day of each and every month, beginning with the month of March, 1927."

It is my opinion that the inadvertent use of the word "treasurer," where, obviously, the word "auditor" should have been used, does not invalidate the bill nor does it leave the state auditor without authority to draw the warrants mentioned in the bill.

The essentials of an appropriation act are that it shall direct the payment of a specified sum of money from the state treasury to a particular person for a designated purpose, and legislative direction to the state auditor to issue warrants pursuant to the appropriation is unnecessary, as a matter of law, and may be regarded as surplusage. It is the duty of the state auditor to issue warrants upon the proper fund, in payment of all claims for which a valid appropriation has been made by the legislative assembly, and no inadvertent direction of the legislature to the state treasurer to perform this duty can divest the auditor of this responsibility.

It is therefore my opinion that it is the duty of the state auditor to issue warrants in payment of claims presented in conformity to house bill number 324, supra.

Very truly yours,

L. A. FOOT,
Attorney General.