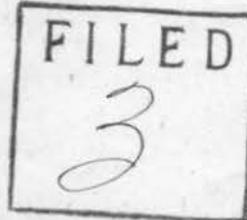


ent of \$500.00 counsel for services of  
Attorney in primary contest for nomination  
for Missouri House of Representatives on  
Resolution of House directing its Committee  
on Accounts to pay said sum held no authority  
thereof.

June 30, 1933 7-3



Mr. Forrest Smith  
State Auditor  
Jefferson City, Missouri

Dear Sir:

Your letter reads as follows:

"On April 20, the following Resolution was  
adopted by the House:

"Be it Resolved, That the Committee  
on Accounts be directed to draw a  
warrant in favor of Jerry T. Dugan to  
pay in full payment for legal ser-  
vices rendered in election contest  
proceedings against the Honorable  
James Carroll, Harry H. Brake, Cor-  
nelius J. O'Brien, and Andrew F.  
Blong, members of the House of Repre-  
sentatives of the 57th General As-  
sembly, in the sum of five hundred  
dollars (\$500.00) and charge the  
same to the contingent fund of the  
House; said warrant to be delivered  
to the said Jerry T. Dugan only upon  
condition that he shall first re-  
ceipt the above named members of the  
General Assembly, the State of Missouri,  
and all committees <sup>or individuals</sup> and persons whomso-  
ever, directly, <sup>1</sup> interested in, or con-  
cerned with, the result of said elec-  
tion contest proceedings."

On April 21, I received the following letter signed  
by Representatives Maxey of Bates County, and Lay  
of Benton County:

Dear Sir:

Yesterday morning the House of  
Representatives, by a vote of thirty-  
nine for to thirty-seven against, with  
seventy-one members absent, adopted a  
resolution directing the Committee on  
Accounts to draw a warrant in favor of

J. T. Dugan in payment of alleged legal services rendered in election contest proceedings in St. Louis.

No contest was, or could have been, instituted in the House involving the nomination of candidates, and the alleged services were not rendered in connection with any contest in the House, but a suit in the Circuit Court in the City of St. Louis.

It was stated by the proponent of the resolution that the services were not rendered in an election contest, but that there was a contest arising from the primary and involving nominees for the General Assembly.

In our opinion, the House of Representatives exceeded its constitutional authority in directing the Committee on Accounts to draw such warrant, and that such an attempted expenditure of public funds is absolutely unconstitutional.

We hope that, before you audit the warrant, you will submit all of the information to the Attorney-General and secure a ruling from his office as to whether or not the House exceeded its constitutional powers in attempting, by this resolution, to so disburse public funds.

Sincerely yours,

(Signed) H. O. Maxey, Rep. Bates County

Henry Lay , Rep. Benton County

If any legal authority exists for payment from State Treasury of \$500.00 counsel fee in primary election contest for a nomination of House of Representatives this department has been unable to find same.

It is the opinion of this department a special appropriation would be required even if the General Assembly had the power to make the payment.

(Hon. Forrest Smith)

June 30, 1933

Enclosed is copy of opinion on similar question  
written Hon. Richard B. Macy, State Treasurer,  
on April 21, 1933.

Very respectfully,

EDWARD G. CROW,

APPROVED:

Attorney General

ECC:hm