

OPINION 7

OFFICIAL OPINION NO. 7

May 22, 1969

Hon. Trudy Slaby Etherton
Auditor of State
Room 240—State House
Indianapolis, Indiana 46204

Dear Mrs. Etherton:

This is in reply to your request for my Official Opinion as to the validity of paying travel claims, amounting to \$1,609.16, charged to the Indiana Senate appropriation for the 96th General Assembly, for travel during the period of March 14, 1968, to December 11, 1968.

You state it is your understanding these claims should have been paid from the appropriation for the Indiana Legislative Council, but there were insufficient funds transferred therefor. These expenses were charged against the Senate appropriation for the 96th General Assembly and delivered to you by the bookkeeper of the Senate by virtue of Senate Resolution No. 10. This resolution was adopted by voice vote on March 7, 1969, and reads, in part, as follows:

“WHEREAS, the 95th Session of the Indiana General Assembly did create and establish many interim study committees; and

“WHEREAS, these study committees composed of legislative and lay appointees under the supervision of the Indiana Legislative Council did function in a responsible and dedicated manner; and

“WHEREAS, the research of these committees has made a significant contribution to the work of the 96th General Assembly; and

“WHEREAS, it has come to the attention of the Senate that many of the appointed legislators and lay appointees did continue to function and answer to their responsibilities even though they were not being reimbursed for their mileage and expenses for attendance at these meetings, because of inadequate appropriations; and

“WHEREAS, the Senate believes that these legislators and appointees should be reimbursed for said unpaid mileage and unpaid expenses.

“Therefore

“Be It Resolved by the Senate of the General Assembly of the State of Indiana:

“That the Secretary of the Senate, upon the presentation of the proper claims, cause to be paid the mileage and expenses of those Senate and lay appointees who attended required meetings and were not reimbursed. These claims are to be paid from funds appropriated for operation of the Senate for the 96th General Assembly.”

For the reasons stated hereinafter, *it is my opinion that you cannot pay these claims from the appropriations against which they are charged.*

The Indiana Constitution, Art. 10, Sec. 3, provides that:

“No money shall be drawn from the Treasury, but in pursuance of appropriation by law.”

The Indiana Constitution, Art. 4, Sec. 1, provides that:

“* * * no law shall be enacted, except by bill.”

Determinative of this question is the case of *May v. Rice, Auditor (1883), 91 Ind. 546*, holding that *a resolution is not a bill, and, therefore, money cannot be appropriated from the state treasury by resolution*. Accordingly, Senate Resolution No. 10 has no force and effect and, the question remains, do the appropriations “for operation of the Senate for the 96th General Assembly” provide for such expenditures?

I have examined the relevant appropriation statutes, Acts of 1967, Ch. 298 and Acts of 1969, Ch. 397, and find that the Senate’s appropriation was for total operating expense for the 96th General Assembly. By definition, it would appear this would not encompass mileage and expenses of Senate and lay appointees of study committees for the 95th General Assembly.