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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

January 26, 1982

FILE NO. 82-001

APPROPRIATIONS:
Propriety of Payments for
Certain Legal Services from the
Appropriation to the Speaker
of the House

Honorable Roland W. Burris
Comptroller
State of Illinois
201 State House
Springfield, Illinois 62706

Dear Comptroller Burris:

I have a letter from your office inquiring whether certain expenditures from the current appropriation to the Speaker of the Illinois House of Representatives and from the current appropriation for expenses of special committees of the House of Representatives are pursuant to and authorized by law. For the reasons hereinafter stated, it is my opinion that the specific expenditures concerning which an inquiry has been made were not authorized in accordance with law.

According to information forwarded from your office, George H. Ryan, Speaker of the House of Representatives,

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executed a contract on July 9, 1981, with the law firm of Chapman and Royce Ltd., wherein the latter agreed to represent Speaker Ryan and other plaintiffs in the reapportionment case of Ryan v. Illinois State Board of Elections. In addition, I have been advised that your office has authorized the payment to Chapman and Royce, Ltd. of approximately \$50,000 from the appropriation to the Speaker of the House and \$25,000 from the appropriation for expenses of special committees. Your office has inquired whether these specific expenditures and future requests for the payment of legal fees in the reapportionment case are proper. Your office has advised that the requests for payments were made in compliance with all technical and procedural requirements.

No public monies may be drawn from the State treasury except pursuant to an appropriation made by law and on the presentation of a warrant issued by the Comptroller (Ill. Const. 1970, art. V, § 17, 18; art. VIII, § 2(b); Ill. Rev. Stat. 1979, ch. 15, par. 209). An appropriation can only be paid out of the treasury in payment of obligations incurred for the particular purposes specified in the appropriation by the General Assembly. (County of Cook v. Ogilvie (1972), 50 Ill. 2d 379, 384; People v. Brady (1917), 277 Ill. 124, 129; People v. Swigert (1883), 107 Ill. 494, 500-02.) Consequently, if the payment of legal fees in the aforementioned reapportionment

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case is not within the designated purpose of the specific appropriations mentioned above, disbursement of funds pursuant thereto for the payment of the legal fees in question was not proper.

Section 2 of "AN ACT to provide for the ordinary and contingent expenses of the General Assembly" (P.A. 82-0071, effective July 21, 1981) provides in pertinent part that:

"Section 2. The following named sums, or so much thereof as may be necessary, respectively, for the objects and purposes hereinafter named, are appropriated to meet the ordinary and contingent expenses of the House:

For the ordinary and incidental expenses of legislative staff and assistants:

For the Speaker.....\$1,140,000

For the Minority Leader.....\$1,140,000

* * *

For expenses of special committees of the

House of Representatives....\$...60,000

* * *

"

(Emphasis added.)

Your office has advised that the above appropriation line items are the specific ones from which the contract payments for legal fees were made.

With reference to the appropriation for Speaker of the House, Public Act 82-0071, as indicated above, provides specifically "For the ordinary and incidental expenses of legislative staff and assistants: For the Speaker\$1,140,000".

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(Emphasis added.) In the absence of statutory definitions indicating a different legislative intent, it is assumed that words used in a statute were intended to have their ordinary and popularly understood meaning. (Winks et al. v. Board of Education of Normal Community Unit School District No. 5 (1979), 78 Ill. 2d 128, 137.) The word "ordinary" is defined in pertinent part to mean:

"* * * la(1): occurring or encountered in the usual course of events: not uncommon or exceptional: not remarkable: ROUTINE, NORMAL * * * " (Webster's Third New International Dictionary, p. 1589.)

The word "incidental" is defined to mean:

"* * * l: subordinate, nonessential, or attendant in position or significance: * * * " (Webster's Third New International Dictionary, p. 1142.)

The statutorily prescribed powers and duties of the Speaker of the House are found in section 5 of "AN ACT relating to the operation of the General Assembly, etc." (Ill. Rev. Stat. 1979, ch. 63, par. 23.5), which provides as follows:

"The Speaker of the House of Representatives shall have responsibility for the operation of the House in relation to the House Chambers, House offices, committee rooms and all other rooms and physical facilities used by the House, all equipment, furniture, and supplies used by the House. The Speaker of the House of Representatives shall have the authority to hire all professional staff and employees necessary for the proper operation of the House. The Speaker of the House of Representatives shall have the authority to receive and expend appropriations for the purposes set forth in this Act whether the General Assembly be in session or not." (Emphasis added.)

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It is clear from a reading of section 5 that the House Speaker's primary statutory duties and responsibilities and those for which he is authorized to receive and expend appropriations, relate to the actual physical and routine operation of House facilities and to the employment of all staff necessary for the proper operation of the House itself. Nothing therein authorizes the expenditure of monies for legal fees with respect to the resolution of a controversy resulting from the failure of the General Assembly to act on a substantive matter such as congressional redistricting, nor is there any other basis for concluding that such expenditure falls within the objects and purposes for which such sums were appropriated. Such an expenditure is clearly exceptional in character and not related to the routine, normal operation of the House. Nor is it incidental to the usual expenses of House operation. Additionally, nothing in Section 4 of the Rules of the House of Representatives, Part 1 (p. 310-11), which provides for certain designated duties of the Speaker of the House, appears to authorize the Speaker to so act.

With reference to the appropriation for expenses of special committees, as indicated above, section 2 of Public Act 82-0071 generally appropriates certain sums "to meet the ordinary and contingent expenses of the House: * * * For expenses of special committees of the House of Representatives

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.....\$60,000 * * * ". Because the \$60,000 appropriated is, by the terms of Public Act 82-0071 itself, to be used for expenses associated with special committees of the House, use of the appropriation to pay legal fees for the retention of outside counsel for representation in litigation is not authorized.

For the reasons stated above, it is my opinion that expenditures for legal fees in the reapportionment case may not lawfully be made from the appropriation to the Speaker of the House or from the appropriation for expenses of special committees of the House because such expenditures are not within the stated purposes of the appropriation line items. Therefore, your warrants ordering payment of the legal fees in question from the appropriation line items were not made in accordance with law.

Very truly yours,

A T T O R N E Y G E N E R A L