

Appropriations, State Prison, Use Of.

An appropriation made for the "maintenance of the state prison" is sufficiently comprehensive in language to permit of the use of same for the making of necessary improvements and repairs.

Helena, Mont., Dec 18th 1907.

Hon. H. R. Cunningham,
State Auditor,
Helena, Montana.

Dear Sir:—

I am in receipt of your favor of the 16th inst., asking opinion from this office respecting certain claims approved by the board of examiners and transmitted to you to be paid on your warrant from the appropriation for the maintenance of the State Prison.

It appears that special appropriations were made by the last legislative assembly for the construction at the State Penitentiary of a hospital building and a woman's building (H. B. 411, Laws of 1907, p. 535), and after construction but before such buildings were ready for use and occupancy, such special appropriations had been fully exhausted, and the question now arises and is by you presented, whether or not the claims to which you refer (being claims for radiators and

other like supplies necessary to make the new buildings habitable and capable of being at once used and occupied) can be properly approved and paid from the appropriation made by the legislature "for the maintenance of the state prison" for the year 1907. "Maintenance" is a most comprehensive word, and the appropriation made by the legislative assembly for the "maintenance of the state prison" cannot, by any reasonable construction of the language, be held to be limited merely to the per capita cost of keeping the prisoners, and it being found necessary to make the expenditures referred to to make such building habitable and for the proper care of the prisoners confined in the state prison, the special appropriation being exhausted, it is my judgment that such claims can properly be approved and paid as coming within the provision, meaning and intent of this appropriation for maintenance, and you are therefore advised that the State Board of Examiners having approved the claims as being proper claims against the maintenance appropriation, it is your duty and proper for you to draw the warrants ordered for the amount of such claims and deliver same to the claimants.

Respectfully submitted,

ALBERT J. GALEN,

Attorney General.