

**Legislature, Authority to Make Retroactive Appropriations.
Animals, Payment for Slaughter When. Appropriations,
Power to Make for Payment Slaughtered Animals.**

The legislature does not have authority under the Constitution to make an appropriation for animals already slaughtered, unless there was some authority of law at the time for the payment for such animals.

January 13, 1915.

Hon. William Gallagher,
House of Representatives,
Helena, Montana.

Dear Sir:

I beg to acknowledge receipt of your enquiry as to whether it is within the province of the legislative assembly to enact a special appropriation law granting relief to the owner of certain livestock killed by the State Veterinary Surgeon sometime during the month of February 1913, the statement of facts being that in that month fourteen head of horses were found afflicted with glanders and were killed. The act of the legislature authorizing the payment for stock killed under such circumstances did not become a law until March 10, 1913.

The law relating to this subject, as it then existed, is found in subdivision 1, Sec. 1889, of the Revised Codes, which provides

"Animals determined by the State Veterinary Surgeon or a Deputy to be affected with disease requiring slaughter. No animals of this class shall be paid for," when a mistake is made.

The last clause of Sec. 29, Art. V. of the State Constitution prohibits the payment of certain claims; that clause being in the following language:

"nor provide for the payment of any claim made against the state without previous authority of law except as may be otherwise provided herein."

There is no other provision of the constitution otherwise providing. Hence at the time this stock was killed there was not any authority of law for making any claim against the state, and there being no previous authority of law for such claim this language of the constitution prohibits the appropriation being made. Such an appropriation would also be class legislation; hence it is my opinion that such an appropriation cannot legally be made.

Yours very truly,

D. M. KELLY,
Attorney General.