

Opinion No. 310**Appropriations—Claims—Biennium
—State Officers.**

HELD: Claims for services rendered or expenses incurred prior to the close of the biennium may be presented and should be allowed even though presented after July 1 of the new biennium.

August 18, 1933.

This question has been submitted to this office for our opinion: "May claims incurred prior to July 1 against the State of Montana be presented and allowed even after July 1st of new biennium?"

Section 304 R. C. M. 1921 provides as follows:

"All moneys now or hereafter appropriated for any specific purpose, shall, after the expiration of the time for which so appropriated be covered back into the several funds from which originally appropriated; provided, however, that any unexpended balance in any specific appropriation may be used for either of said years for which such appropriation has been made."

"Unless expressly so provided, it is not necessary that the money appropriated should be actually applied for or drawn from the treasury during the time limited, and a like rule prevails where statutes make the appropriation available for a designated and limited period of time only. Moreover, the expressed time limitation does not put an end to an appropriation, in so far as claims have matured and warrants been issued therefor prior to the expiration of such time, merely because the designated period

expires before the funds appropriated have been or will have been collected." 59 C. J. 259, sec. 397.

"This section means simply this: that provision for the support of the Government by any one legislature must be limited to two years. **It does not require the money appropriated to be actually drawn** from the treasury during that time, but the expense must be incurred or the salary earned, during the two years for which the appropriation is made." Opinion of the Judges, 5 Neb. 566.

"Under the constitutional provisions as to the ending of appropriations with the expiration of the first fiscal quarter after the adjournment of the next regular session of the legislature * * * **it is not essential that the money be actually drawn during the two year period, but the expense must have been incurred during the two years for which the appropriation is made.**" State ex rel. Ledwith v. Brian, 120 N. W. 916, 84 Neb. 30.

"While the authority to incur expenses during each fiscal year was limited to the sum named in the statute, the actual payment of those expenses, the issuance of warrants, was not restricted by the statute to the fiscal year in which the service is rendered or the expense incurred; though . . . payment could not be made unless there was . . . an unexpended balance in the appropriation for the fiscal year during which the expense was incurred. The bases of the limitation in our statute are the fiscal year and the maximum sum prescribed for expenses during the fiscal year; and the limitation is not restrictive of the time of payment for services rendered." Allgood v. Stallings, 72 So. 383, 197 Ala. 121.

To the same effect are *People v. Lippincott*, 72 Ill. 578; *Irion v. Conner*, 128 So. 37, 170 La. 435; *Benedict v. New Orleans*, 39 So. 792, 115 La. 646; and *Maryland Agricultural College v. Atkinson*, 62 A. 1035, 102 Md. 557. In *McMullen v. Zouck*, 100 A. 728, 130 Md. 541, it was held that failure to file statement of outstanding claims against the appropriations, by the body for whom it has been appropriated, at the end of the time limitation specified in the act does not alter the operation of the rule stated in the first paragraph of this discussion.

We saw no cases to the contrary.

From the rule laid down in the above authorities, it follows that claims for services rendered or expenses incurred prior to the close of the biennium may be presented and should be allowed even though presented after July 1st of the new biennium.