APPROPRIATIONS:)
STATE TREASURER:) Appropriations provided for in Section 41,
STATE AUDITOR:) Laws of 1933, page 86, with reference to schools, expires under the provisions of Section 19, of Article X of the Constitution of the State of Missouri.

July 17, 1934.

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Honorable Richard R. Nacy
State Treasurer
Jefferson City, Missouri

Dear Mr. Nacy:

Receipt of your letter dated June 30th, 1934, is acknowledged. Your letter is as follows:

> "On Page 86, Section #41, 1933, Regular Session, an appropriation was made for Vocational Education which reads in part as follows:
>
> > There is hereby appropriated for the fiscal year beginning July 1, 1932 and ending June 30, 1934, certain sums of money for Vocational Education.
>
> "I would like your opinion as to whether or not the State Treasurer be authorized to pay out of money in this appropriation on State Auditor's warrants bearing a date later than June 30, 1934."

Section 41, Laws of 1933, page 86, referred to in your letter is a part of the general appropriation bill enacted by the General Assembly in 1933, approved 23rd day of May, 1933, carrying an emergency clause.

Section 41, above referred to, is more fully set out as follows:

> "There is hereby appropriated out of the State treasury, chargeable to

> that part of the state revenue set apart for the support of the free public schools of Missouri, for the fiscal year beginning July 1, 1932, and ending on June 30, 1934, the sum of two hundred and eighty-three thousand four hundred dollars ($283,400) for carrying into effect the provisions of article 6, chapter 57, Revised Statutes of 1929, respecting vocational education in the amounts and for the specific purposes as in this section set out as follows: "

Then follows the naming of the specific purposes and objects for which the sum so appropriated may be used.

Rules to be applied in construing appropriation laws as stated in 59 C. J. 262, Section 401, are as follows:

> "An appropriation law is to be construed under and by the same rules as other legislation. Where the intention of the legislature is plain and obvious, there is no room for judicial construction of an appropriation. They are to be construed without liberality towards those who claim their benefits; but are not to be construed so strictly as to defeat their manifest objects. The language is to be presumed to have been used in its natural and ordinary meaning, and not to be given a forced and unnatural construction. The whole bill is to be examined to arrive at the true intention of the parties. Where the meaning of an appropriation act is doubtful the construction placed upon it by the officers charged with the administration thereof is entitled to considerable weight, but is not controlling when it is clearly wrong. They are to be construed in connection with other legislation concerning related matters and with relevant constitutional provisions. Rules of construction confirmed or established by statute for the construction of statutes generally are to be applied in the construction of appropriation bills."

It will be here noted that the appropriation is made for the support of schools for the fiscal years beginning July 1, 1932, and ending on June 30, 1934 -- that is the two dates prescribe the period for which support was to be furnished by means of the appropriation.

Section 19 of Article X of the Constitution of the State of Missouri, provides:

> "No moneys shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made, or a warrant shall have issued therefor, within two years after the passage of such appropriation act; and every such law, making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object. A regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

The title to the Appropriation Act, above referred to, Laws of 1933, page 62, reads:

> "AN ACT appropriating money to pay salaries, wages and per diem for the original purchase of property, for the repair and replacement of property; for the operative expenses and for other purposes of several state agencies herein designated out of the funds in the amounts set out and for the specific purposes herein expressed; for the biennial period beginning January 1, 1933, and ending December 31, 1934, and placing a limitation upon the purchase price of passenger automobiles, with an emergency clause."

Discussing a somewhat similar situation in State ex rel. Smearing v. Thompson, 45 S. W. (2d) 1078, Ragland, J. said:

> "The only question here is whether the payment which relatrix seeks to have made out of the state treasury is within the 'object' to which the appropriation under the act just set out is to be applied. If it is a 'pension to the deserving blind as provided for in chapter 51, Revised Statutes, 1929,' it is. The language in the title of the Appropriation Act, 'for the biennial period beginning on the first day of January 1931, and ending on the thirty-first day of December, 1932,' if read into the act itself, merely limits the period within which the appropriation made shall be available, in conformity with said section 19 of the Constitution; it has no reference to the time when the right to the pensions for the payment of which the appropriation is made should accrue or had accrued, nor to the period for which such pensions are payable."

While the foregoing statement of the court may be said to be dictum, yet, if it be sound law, Section 19 of Article X of the Constitution has no reference to the time when the right to payments under Section 41 shall accrue nor to the period for which such support be payable but simply provides that the payment provided for in the appropriation shall not be made after the time specified in Section 19 of Article X of the Constitution. Section 41 of the appropriation bill seems to fix the times between which claims for the support provided for in the section shall accrue -- that is, between July 1, 1932, and ending June 30, 1934, both dates inclusive. Or stated in another way, the provisions of Section 41 do not undertake to fix the date when the appropriation provided for in that section shall expire nor be payable but relates only to the time when the support is to be provided for by the appropriation and the expiration of the life or vitality of the appropriation act,

so far as payments thereunder are concerned is to be determined by considerations other than the provisions of Section 41 of the Appropriation Act.

The title to the Appropriation Act above set out recites that it is an act appropriating money for certain purposes for the beinnial period beginning January 1, 1933, and ending December 31, 1934. Section 19 of Article X of the Constitution above quoted provides that no moneys shall be paid out of the state treasury except in pursuance of an appropriation by law and that such moneys shall be paid out or a warrant issued therefor within two years after the passage of such appropriation act. The Appropriation Act under consideration was passed May 23, 1933, when the same was approved by the Governor.

While Section 19 of Article X of the State Constitution does not specifically say that payments may be made out of appropriations for two years after the passage of the Appropriation Act, yet it does say that payments shall not be made out of appropriations or warrants be drawn thereon after two years have elapsed from the date of the passage of the Act. There is no limitation sought to be placed on the time of payments by the Appropriation Act under consideration, except in the title to the bill.

In the case of State ex rel. v. Holladay, 64 Mo. 526, the court had under consideration the effect of a statute enacted prior to the adoption of the Constitution of 1875, which statute sought to make an annual appropriation of certain funds. The court at page 527 of the opinion said:

> "From a consideration of these two sections, it seems quite obvious that no appropriations of money find recognition in the constitution except 'regular appropriations,' and that such cannot be made except at regular legislative sessions, occurring biennially. This view of the matter receives abundant confirmation in the prohibitions of section 19 of article X, that 'no moneys

shall ever be paid out of the treasury of this State, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made, or a warrant shall have been issued therefor, within two years after the passage of such appropriation act, and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient to refer to any other law to fix such sum or object,' etc.

"The act of March, 1870, is clearly inconsistent with the provisions of the constitution above quoted, and in consequence thereof, and in conformity with what the schedule ordains, the provisions of that act ceased when the constitution was adopted. For although the sections of the constitution just cited, do not in express and direct terms inhibit the auditor from drawing his warrant in favor of a claimant who relies on an appropriation more than two years old, yet those sections, by necessary and inevitable implication, accomplish the same result; for it cannot, with any show of reason, be claimed that a warrant can be drawn without an appropriation; but as just seen, no appropriation possesses any validity, force, or even existence, after the lapse of two years.

"These provisions of the organic law are self-executive, and consequently need no legislation in their aid."

The foregoing opinion seems to imply that an appropriation act is effective for two years from the date of its passage.

We are of the opinion that payments may be made out of the appropriation above referred to at least until and including December 31, 1934, if the claim or right to support for which a warrant is issued accrued or arose prior to July 1, 1934.

Yours very truly,

GILBERT LAMB
Assistant Attorney-General.

APPROVED:

ROY McKITTRICK
Attorney-General

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