

State Veterinarian, Cattle Condemned and Slaughtered by. Cattle, Condemned and Slaughtered. Compensation for. Compensation, for Cattle Condemned and Slaughtered.

The valuation of all animals condemned and slaughtered by the state veterinarian shall be actual assessed valuation thereof as shown on the last preceding assessment roll of the county;

Provided, however, that the owner thereof shall not be entitled to compensation therefor unless the same appears as having been assessed for taxation on the assessment roll for the last preceding year.

June 7th, 1913.

Hon. W. J. Butler,
State Veterinary Surgeon,
Helena, Montana.

Dear Sir:

Replying to your letter of the 2nd instant, which reads as follows:

"I desire an opinion from you as to whether or not animals will be compensated for, when condemned for slaughter, which do not appear on the assessor's list for 1912, but which have been assessed and upon which assessment will be paid for this year."

Beg leave to advise that the right to compensation for animals condemned and slaughtered according to law, is fixed by Sec. 3, Chap. 68, 1913 Session Laws. This section provides:

"When the state veterinarian or his deputy has deemed it advisable to slaughter such animals as provided by law, the valuation of such animals so ordered to be killed shall be the actual full assessed valuation thereof, as shown on the last preceding assessment roll of the county in which such stock were assessed, provided, however, that if any animals so ordered to be slaughtered shall not appear on the assessment roll as having been assessed for taxation the last preceding year, the owner thereof, shall be entitled to no compensation therefor."

I am of the opinion, that under the provisions of this section, the basis of compensation for animals condemned and slaughtered, is the actual full assessed valuation as shown by the current or 1913 assessment roll, for the words "last preceding," evidently have reference to the assessment roll next previous to the time such animals are slaughtered and the words undoubtedly are used as being synonymous with the 1913 assessment roll, and it is to this assessment roll that reference should be had for fixing the valuation of such animals as a basis of payment therefor. However, animals which have been ordered to be slaughtered shall not be paid for unless they were assessed and appeared on the assessment roll of the last preceding year. The phrase "last preceding year" cannot be logically construed as meaning the present or current year, for the last previous year means the year immediately before the present year. Any other construction would do violence to the language used.

You are, therefore, advised, that cattle which have been condemned and slaughtered, are to be paid for at their full cash value as such value appears on the 1913 assessment roll, provided that the owner or claimant can show that the animals for which claim is made were assessed and appeared as assessed in the 1912 assessment roll.

The foregoing applies only to animals slaughtered, which were actually diseased, and where objective evidence thereof, by lesion or otherwise, is found upon autopsy; healthful animals mistakenly slaughtered as diseased animals are to be compensated for as provided by the terms of Sec. 1891 of the Revised Codes of 1907.

Yours very truly,

D. M. KELLY,
Attorney General.