

State Veterinarian—Meat and Milk Inspectors, Duties Of.

Meat and Milk Inspectors appointed under the laws of 1903, p. 226, are deputy veterinarians with limited powers as such, their powers being confined to the inspection of meat and milk intended for human consumption. To make such inspections they have the power to establish temporary quarantines during the time they are making the inspection. They have no authority to order cattle which they may find diseased and have condemned as unwholesome for food to be slaughtered. The power

to order the slaughter of diseased cattle rests wholly in the state veterinarian or his duly appointed deputy, under Section 3018, Political Code, as amended Laws 1901, p. 129.

The state veterinarian has authority to quarantine diseased animals and infected premises, and may order their slaughter when in his judgment he deems it necessary; also, under his authority of direct supervision of meat and milk inspectors, he may inspect meat and milk and perform all other duties that have been imposed by the laws of 1903 upon meat and milk inspectors. The slaughter of diseased animals, being a matter wholly in the judgment of the state veterinarian, no owner of such animals can of right demand that said diseased animals be slaughtered.

The violation of any quarantine established by the veterinarian or the governor is punishable under Sections 1169 to 1176, Penal Code.

April 3, 1905.

Dr. M. E. Knowles, State Veterinarian, Helena, Montana:

Dear Sir:—Yours of the 14th ultimo, requesting an opinion, duly received and considered. You state the meat and milk inspectors in Deer Lodge, Silver Bow and Cascade counties have in quarantine a number of cattle affected with tuberculosis, and you ask the powers of such inspectors, and what disposition should be made of these cattle; whether they can be held in quarantine in the future, and whether such inspectors, or yourself, as State Veterinarian, have the right to brand such cattle, when condemned by a meat and milk inspector, with the letter "T" on the jaw, as provided by Division 12 of Circular 8 of the Montana State Veterinary Department.

The meat and milk inspection law passed in 1903, (Chapter CXX, Laws of 1903, p. 226) provides for the appointment, by the president and secretary of the state board of health and the State Veterinarian, of meat and milk inspectors who "shall be designated deputy state veterinarians." Subdivision 4 of such law provides that the rules and regulations and method of inspection adopted by the Bureau of Animal Industry of the United States, supplemented by any rules which may be necessary by the aforesaid mentioned board, shall be taken as the standard of meat inspection. Section 3 provides that the meat and milk inspector shall have the right to **condemn** any meat, carcass, etc., or to **condemn** cattle, sheep or swine, etc., whenever the same are intended for **food for human consumption**.

It is clear from the above sections, and in fact from the language used in all the sections of such law defining the powers and duties of meat and milk inspectors, that they are appointed for the purpose only of inspecting meat and milk intended for food for human consumption, and while they are designated deputy state veterinarians, their power as deputies is limited to the special work required of them under this law. Thus,

under Section 5, they have the right, after examination, to condemn any meat, etc., or to condemn cattle, sheep, etc., and after the animals are slain they can destroy the meat by slashing the same with a knife and injecting kerosene therein, so as to make it impossible to be used for human consumption. Also, under such law and the rules adopted by the board under Sections 4 and 21, they have authority to quarantine temporarily all cattle intended for food or that are being milked for human consumption, in order that they may make the proper inspection of such cattle to ascertain if they are affected with tuberculosis.

It seems, however, that when the inspector has quarantined the cattle and made the necessary examination that all he can do is to condemn the meat, or the milk that might be taken from the cow, as unwholesome for human consumption, and under rule 12 of circular No. 8 of the Montana State Veterinarian Department, you or your deputy or inspectors have authority to brand on the jaw with the letter "T" any cattle that they find infected and have condemned.

More than this I do not believe they can do. When it comes to inspecting cattle or other animals not intended for human consumption, or to the inspection of such animals as are intended for human consumption with the view of ordering any that might be seriously infected with disease to be slaughtered, the power rests wholly in the State Veterinarian or his duly appointed deputy, under Section 3018, of the Political Code, as amended by the Laws of 1901, p. 129. Under Section 3001, as amended by the laws of 1905, and Sections 3004 and 3005, of the Political Code, the State Veterinarian has authority to quarantine diseased animals and infected premises, and in case of an epidemic of disease, where premises have been previously quarantined by the veterinary surgeon, he is authorized and empowered, when in his judgment necessary, to order the slaughter of any or all such diseased animals on such premises and of all such animals as have been exposed to contagion or infection, under the restrictions provided in Sections 3005 and 3006. The State Veterinarian, under his authority of direct supervision of inspectors, may inspect milk and meat and perform all other duties that are imposed by said law of 1903 upon meat and milk inspectors, and in addition he can perform all the duties required of him under Sections 3000 to 3018, of the Political Code. On the other hand, meat and milk inspectors, appointed by the board under the laws of 1903, cannot perform all the duties and have not the same authority that the state veterinarian and his duly appointed deputy have, their authority being limited to the carrying out of the special provisions and purposes of the meat and milk inspection law. The State Veterinarian, having the same authority as the meat and milk inspectors, would have authority, in case the inspectors failed to do so, to brand any infected animals in the manner provided by Section 12 of circular No. 8. However, as stated, above, whenever the meat and milk inspectors have established a quarantine for the purpose of enabling them to inspect the meat or the milk, it would seem that the quarantine would end when they had completed their inspection and either condemned or given a certificate of good health of the animal quarantined.

If such animals were so infected with disease as to endanger other live stock in the State, it then becomes the duty of the State Veterinarian or his duly appointed deputy to inspect such animals, establish permanent quarantine, if necessary, and if, in his judgment, he deems it necessary he may order such animals or any of them slaughtered in the manner provided by law.

We are, therefore, of the opinion that the meat and milk inspectors are limited in authority as deputy state veterinarians to that expressly conferred upon them by law, and that they can only act in matters pertaining to the examination of meat and milk intended to be used for human consumption or of cattle intended to be killed, or milked, for human consumption, and whenever any examination, quarantine or other proceedings are had for the purpose of suppressing epidemic diseases in order to prevent the same from spreading among the live stock of the state the sole power and authority to perform such duties is conferred expressly upon the State Veterinarian. (See Sections 3000 to 3018, Political Code.)

In all cases of contagious or infectious disease among domestic animals or Texas cattle in this State, the Veterinary Surgeon has authority to order the quarantine of the infected premises, as provided in Section 3001, as amended by Chapter 38, Laws of 1905, and Section 3004, of the Political Code, and he must select the place where the stock must be quarantined, as provided in Section 3017; and in case such disease becomes epidemic in any locality in the state he must establish quarantine or immediately notify the governor, who must establish quarantine by issuing a proclamation forbidding any animals of the kind among which said epidemic exists to be transferred from said locality without a certificate from the veterinary surgeon showing such animals to be healthy. Such quarantine may continue as long as deemed necessary in the judgment of the State Veterinarian. The expense of holding, feeding and taking care of the animals thus quarantined must be paid by the owner, agent or person in charge of the animals. (Sec. 3004, Political Code.) Whenever the State Veterinarian quarantines any premises, or whenever the governor issues a quarantine proclamation, upon receiving notice from the State Veterinarian, it is not necessary that the veterinarian should thereupon issue an order for the slaughter of any or all of such animals so quarantined, nor can the owners of such animals demand of, or require, the State Veterinarian to issue an order for the slaughter of any of such animals. He may simply establish the quarantine, or have the governor to establish it, and continue the same in force so long as he deems it necessary for the protection of the live stock of the State or any part of it; and any one who attempts to violate the quarantine can be punished as provided under Sections 1169 to 1176, of the Penal Code.

As to when animals in quarantine, or that are affected with contagious disease, should be slaughtered is a matter that rests wholly in the judgment of the State Veterinarian, and while he may deem it necessary to have a quarantine established he does not have to order the

slaughter of any of such animals unless in his judgment he thinks it necessary.

Respectfully yours,

ALBERT J. GALEN,

Attorney General.