

Animals, Diseased, Slaughter of. Slaughter, of diseased animals. Veterinary Surgeon, Authority of. Interstate Shipments, How treated.

Where animals are found in this state afflicted with foot and mouth disease, the Veterinary Surgeon may order same destroyed.

Interstate shipments that are stopped in transit may be dealt with by state authorities unless federal authorities act.

November 21, 1914.

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

Dear Sir:

I am in receipt of your letter of present date, stating that a train load of cattle was shipped into the State of Montana by the Northern Pacific Railroad Company, and that said cattle were either infected with the foot and mouth disease, or had been exposed to such disease prior to reaching Montana. This stock, it appears, too, was consigned from a point without the State of Montana to points within the State of

Montana, west of the City of Miles City; that information was given you by the Veterinarian of North Dakota that this stock was diseased, and that you immediately ordered it to be stopped at the first station where food and water could be obtained. The railroad company in obedience to this order stopped and returned the train of cars to Glendive, Montana, and there the stock was unloaded; that subsequently, under the joint authority of the Federal inspector, and of the state authorities, three car loads of this stock found actually infected with the disease, were slaughtered, and the balance of the train load was held in quarantine. Since that time it has been ascertained that the whole of this stock is infected, by reason of exposure prior to reaching the State of Montana.

Strictly speaking, goods or stock shipped from a point without the State of Montana, consigned to a point within said state, retains its character as interstate commerce until the point of destination is reached.

Southern Ry. Co. vs. Greensboro, I. C. Co. 134 Fed. 82.

In this case, however, it appears that after you had ordered the shipment stopped, the Federal authorities recognized your authority so to do by assuming jurisdiction over the stock in the Glendive yards, and joined with you in the slaughter thereof. It does not appear clear just whether the Federal authorities did or will assume jurisdiction over the remainder of the stock. If such authorities will assume jurisdiction over the stock now in the yards, that jurisdiction should be accorded to it, but if they do not assume jurisdiction, or waive jurisdiction, then the very law of necessity will require the state authorities to act, and in such case you have full power and authority under the laws of the State of Montana, to cause this stock to be slaughtered. The letters heretofore addressed to you on July 3rd, 1914, and June 9th, 1914, deal specifically with your authority in the slaughter of animals found to be affected with dangerous, contagious diseases. The principles there announced apply with equal force to the present case.

To summarize and specify, the conclusion reached is that unless the Federal authorities immediately assume jurisdiction over this stock, that you as State Veterinary Surgeon have full power and authority to assume that jurisdiction, and to slaughter the stock,

The general discussion of the relative authority of the State and United States in such matters, may be found in

Reid vs. Colorado, 187 U. S. 137.

Yours very truly,

D. M. KELLY,
Attorney General.