

Animals, Value of When Condemned. Diseased Animals, Value How Determined. Livestock, Amount to be Paid for Diseased When Slaughtered.

Remuneration for livestock killed under order of the Veterinary Surgeon or the Livestock Sanitary Board, should be paid for upon the assessment value shown upon the assessment roll next preceding the discovery of the disease.

January 26, 1916.

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

Dear Sir:

I am in receipt of your communication under date the 24th instant, submitting for my opinion the proper valuation of animals found to be diseased and ordered to be slaughtered, but which for some reason are not immediately killed. You ask:

"Is the assessed value to be taken as that found on the assessor's list at the time the animal was found diseased, or reacted to the test for determining the presence or absence of disease, or is the value to be taken from the assessor's list as found thereon on the date of the actual destruction of the condemned animal?"

You state that there are cases where animals have reacted to tests but are not immediately killed, either from unavoidable circumstances, or in the case of tubercular animals, where they are held in quarantine by owners, under the provisions of law allowing this.

The provisions of Chapter 140, Laws of 1915, allowing compensation to owners of livestock killed under order of yourself or the State Livestock Sanitary Board, does not state what assessment is to be considered as determining the value of such animals, further than to say that:

"The valuation of such animals so ordered to be killed, shall be the actual full assessed valuation thereof, as shown on the last assessment roll of the county in which such stock was assessed; but such assessment shall not in any case exceed the actual value of such stock at the time of such assessment."

The only indication as to which assessment is to be taken, is the first portion of Section 3, which states when the state veterinary or his deputy or the state livestock board has deemed it advisable to slaughter such animals.

I am of the opinion that the assessment by which the value of such animals is to be fixed is the assessment next preceding the determination by the state veterinary, or the board, that the animal must be slaughtered, and for these reasons, the law provides in Section 2502, Revised Codes, 1907, that "all taxable property must be assessed at its full cash value". Section 2512 of the Code requires property owners to make affidavit as to their property. The law presumes that property owners, as well as the officers, do their duty. No presumption arises after the condemnation of an animal that it was not fully assessed at

the assessment previous to discovery of the disease, and certainly no one could successfully contend that the discovery of a slaughterable disease in an animal raised its value. Hence, an owner who wilfully raised the value of his animal subsequent to condemnation, could scarcely do so in good faith, the presumption being that at each assessment time he lists it at its full cash value.

I am of the opinion, therefore, that compensation should be paid upon the assessment value shown for the animal upon the assessment roll next preceding the discovery of the disease, and not at the time of slaughter.

Yours very truly,

J. B. POINDEXTER,

Attorney General.