

**Animals, Assessed Value of. Diseased Animals, Slaughter of. Compensation, for Slaughtered Animals. Assessed Value, of Slaughtered Animals.**

Compensation for slaughtered cattle is based upon their actual value at the time last assessed, irrespective of the assessment, except that compensation cannot be for a greater sum than the assessed value.

The state auditor should reject claims for compensation where found not to be correct.

May 11, 1916.

Hon. William Keating,  
State Auditor,  
Helena, Montana.

Dear Sir:

I am in receipt of your letter of May 9th, to which are attached two affidavits and certificates of slaughter, and some correspondence relating thereto. These certificates are verified claims for compensation for animals slaughtered by direction of the Livestock Sanitary Board because of disease, and are made pursuant to the provisions of Chapter 68, Laws of 1913, as amended by Chapter 140, Laws of 1915.

You have requested me to examine these claims, together with the correspondence accompanying them, and to advise you in regard to your duties in handling claims of this character.

Under the law as it stood before amendment, compensation was based upon, and equal to, the full assessed value of the animals destroyed.

Volume 5, Opinions Attorney General, p. 192.

Such payment was to be made in all cases "unless it appears that such a valuation was turned in by the owner for the purpose of defrauding the state."

Volume 5, Opinions Attorney General, p. 306.

The language of the original Act was:

"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."

The last legislative assembly added to this language the following proviso:

"but such assessment shall not in any case exceed the actual value of such stock at the time of such assessment."

As the law now stands, it is apparent that the assessed valuation of animals destroyed need not necessarily be a controlling factor, if indeed it need be considered at all, in determining the liability of the state. The policy of the law, since the amendment of the Act, is to provide compensation equal to the actual value of the stock on the preceding first Monday of March, with the qualification that such actual value shall not exceed in amount the value returned for assessment

purposes. It is very manifest that the officers charged with the duty of passing upon claims presented by persons whose diseased animals have been legally slaughtered, are now authorized to determine the facts pertaining to value, and to this end may resort to such evidentiary matters as will enable them to pass intelligently upon the reasonableness and correctness of the claims. Upon such investigation being made, if it appears that a claimant seeks a greater amount than his animals were actually or reasonably worth when assessed, the claim should be rejected, for it is only when the State Auditor, upon examining a claim, finds it correct, that he shall issue a warrant therefor (Sec. 4, Chap. 68, Laws 1913).

From the correspondence accompanying your letter, it appears that both claimants returned all their cattle for assessment in 1915, at forty dollars per head. This year one of the claimants, Chas. Quast, returned the cattle for which he now seeks compensation, at from forty dollars to one hundred dollars per head; and the other claimant, P. H. Griffin, returned his as follows: Two head, seventy-five dollars each; three head at one hundred fifty dollars each, and nineteen head at two hundred dollars each. In both cases the cattle were inspected, found to be infected with tuberculosis, ordered slaughtered, and were destroyed within sixty days after the first Monday of March. These facts of themselves raise a strong-suspicion that the slaughtered animals were diseased and worthless when returned for assessment.

In the case of Mr. Griffin, it has come to my notice through Dr. Butler, State Veterinary Surgeon, that on September 24th last, a part of his herd was examined, and five head were found to react to the tuberculin test; of these, two were destroyed on the 26th of October. On October 29th another test was made, and fourteen animals were found to react to the tuberculin test. These were not destroyed, but placed in quarantine at the solicitation of Mr. Griffin. Last month his herd was again examined, and as a result twenty-four head of diseased animals were destroyed, for which compensation in the sum of \$4,400 is asked. If this statement of facts be correct, it is clear that this claim is unjust, and in excess of the actual value of the animals destroyed, and you are not justified under the law in drawing a warrant upon the state treasurer in favor of this claimant for the amount claimed.

Regarding the Quast claim, Section 4 of the law reads in part as follows:

“The State Auditor shall examine the same (claim), and if found correct, he shall issue a warrant on the state treasurer for fifty percent of the sum named in the return.”

As before indicated, all of this claimant's cattle were returned for assessment in 1915 at forty dollars per head. Of the eight animals from his herd destroyed last month because of tubercular infection, three were assessed at forty dollars; four at ninety dollars per head, and one at one hundred dollars, but so far as this office is aware, no satisfactory explanation has been offered why the assessment of five head of this stock is more than double that of last year. Furthermore, these animals were destroyed so soon after being returned from as-

sessment, as to at least warrant the inference that they were diseased when assessed. Therefore, you are not justified in drawing your warrant in favor of this claimant unless and until you are satisfied that the actual value of the animals destroyed was as stated in the claim, on the first Monday of last March.

Yours very truly,

J. B. POINDEXTER,

Attorney General.