

Live Stock, Indemnity for on Account of Slaughter—Indemnity for Slaughter of Live Stock, When to be Paid.

Where live stock had not been within the state one hundred and twenty days prior to its slaughter on account of the mistaken belief that it had tuberculosis, the owner is not entitled to indemnity therefor.

August 30, 1920.

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

Dear Sir:

I have your letter with reference to a Shorthorn bull, shipped from Idaho to Montana, which, after being subjected to a tuberculin test and retest, was condemned and destroyed, the post mortem examination under federal supervision, however, failing to show any tuberculosis lesions, in which letter you state that the animal had not been in Montana one hundred and twenty days previous to its being condemned and destroyed, and that it was not compulsory for the owner to have destroyed it as he had the privilege of returning it in quarantine under federal regulations to the State of Idaho.

Section 10 of Chapter 157, Session Laws 1917, divides animals into two classes: (1) those determined to be affected with an incurable disease requiring slaughter, such as tuberculosis, glanders, dourine, or other diseases determined to be incurable by the Sanitary Board; (2) those diseased with an infectious, contagious, communicable or dangerous disease which is not necessarily fatal.

Section 11 of said Chapter provides that owners of animals slaughtered shall be entitled to indemnity therefor, excepting in certain cases, and one of such exceptions is specified in subdivision 5 of said section as animals which have not been within the State for at least one hundred and twenty days prior to the discovery of disease, provided that animals of the second class which have not been in the state one hundred and twenty days may be paid for when such payment is authorized by the Live Stock Commission and the Sanitary Board, and approved by the State Board of Examiners. The exception contained in this subdivision of Section 11 has no application whatever to animals belonging to the first class provided for by Section 10, but only to animals of the second class provided for by said section 10.

As the Shorthorn bull in question belonged to the first class, designated in Section 10, and had not been within the state one hundred and twenty days before it was condemned, the owner of the animal is not entitled to indemnity therefor from the State of Montana.

Respectfully,

S. C. FORD,

Attorney General.