

Animals — Livestock — Expenses — Livestock Sanitary Board.

The expense of burial or other proper disposal of animals slaughtered by the livestock sanitary board should be defrayed by said board.

October 25, 1927.

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

My dear Doctor Butler:

You have requested my opinion on the following question:

“Where animals are destroyed by order of the Montana Livestock Sanitary Board, is the owner or agent of such destroyed animals, or the Livestock Sanitary Board, liable for the expense of burial or proper disposal of such animals?”

Subdivision 10 of section 3267 authorizes the livestock sanitary board to slaughter, or cause to be slaughtered, livestock affected with, or which has been exposed to, contagious or dangerous diseases, when such slaughter is necessary for the protection of other livestock.

Section 3280 R. C. M. 1921 reads in part as follows:

“The expense of inspecting, testing, * * * supervision of dipping, supervision of disinfecting and supervision of other treatment of livestock by the Livestock Sanitary Board under the provision of this Act * * * shall be paid for by the Livestock Sanitary Board out of such funds as they may have at their command.”

While section 3289 does not in express language mention the expense of burial or other proper disposal of animals slaughtered by the board, it is my opinion that such expenses may be said to be fairly comprehended within the term “supervision of other treatment of livestock.”

Certainly the livestock sanitary board could not leave the carcasses of cattle to rot on the ground without creating a disease menace as well as a public nuisance. In the absence of any statute making it the duty of the owner of such animals to bury them and abate the nuisance the reasonable presumption would be that such duty devolves upon the person or agency creating the nuisance—in this case, the livestock sanitary board.

It is therefore my opinion that the expense of burial or other proper disposal of animals slaughtered by the livestock sanitary board under the statute above referred to should be defrayed by said board.

Very truly yours,

L. A. FOOT,
Attorney General.