

Livestock — Livestock Sanitary Board—Tuberculosis—Inspection—Salvage—Indemnity.

Owners of tubercular livestock have no claim for indemnity against the state or county where no order of destruction has been made and the animals have not been destroyed in pursuance thereof. When such order and destruction have been made owner has no claim for indemnity if he accepts salvage from the sale of the carcasses. Statute does not authorize indemnity for loss or damage to business.

Livestock Sanitary Board,
Helena, Montana.

October 22, 1930.

Gentlemen:

You have submitted to this office your file with reference to the claim of F. Myrtle Barnes, which is based upon certain cattle owned by her and which were found to be tubercular and which she was permitted to sell and retain the proceeds from the sale. It appears that these cattle, after an inspection, were found to be tubercular and instead of the same being ordered slaughtered by the board she was issued a permit to ship and sell them, which she did, and she received the proceeds of the sale, amounting to \$1210.00. She has now filed her claim for the full purchase price of the cattle together with an item of \$1500.00 for loss sustained in the dairy business and equipment less the profits derived from the sale of the cattle. You inquire if this is a proper claim.

The authority to pay claims of this nature is limited by the statutes to those cases in which the animals have been ordered destroyed by the livestock sanitary board and which have been destroyed in pursuance of that order, and then only provided that the owner has not accepted the salvage obtained by a sale of the carcasses when they are found to be fit for human consumption. In the cases submitted by you it appears that the animals were never ordered destroyed and were not destroyed by the owner, but, on the contrary, she was permitted to ship and sell them, which she did. Such being the case, the case is not one within the statute which permits the owner to obtain indemnity by reason of the slaughter of his animals.

Even though an order of destruction had been made and if it could be said that the shipment of the cattle and sale was in pursuance of that

order, still the owner could not maintain her claim for the reason that her acceptance of the salvage is, under Section 3277, in full settlement for the destruction of the animals and said section specifically provides that the owner shall have no further claim against the state or county on account of the slaughter.

The statute does not authorize the payment of a claim on account of loss or damage to business on account of the destruction of the tubercular cattle, nor can a claim be allowed where it is based upon any fact or condition except the slaughter of the animals in pursuance of an order of destruction issued by the livestock sanitary board and then only when the owner has not accepted the salvage that arises from the sale of carcasses found to be fit for human consumption.

It is therefore my opinion that this claim is not a proper one to be paid.

Very truly yours,

L. A. FOOT,
Attorney General.