

**Opinion No. 11****Licenses—Butcher's and Peddler's License.**

HELD: In order to give effect to the intention of the legislature, a reasonably strict construction should be given the word "breeding" in clause exempting persons from paying peddler's license.

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January 12, 1933.

You have requested my opinion regarding the construction of the second paragraph of Section 2 of Chapter 172 of the 1931 session laws, which reads as follows:

"This section shall not apply to the slaughter of meat by any person, firm, corporation, or association who may slaughter or cause to be slaughtered any neat cattle of his or its own breeding, nor to the sale of slaughtered cattle of his or its own breeding; provided any person who shall sell the equivalent of more than twenty-five (25) carcasses, beef and/or veal, in any one (1) year shall take out a license as herein provided for."

You have asked whether the word "breeding" should be construed strictly, or whether a wide latitude should be allowed in its construction.

The Standard Dictionary defines "breeding" as follows: "The process or act of generating, producing or bearing," also "the systematic raising or crossing of domestic animals \* \* \* for improvement of the stock, for profit, or for scientific experiment."

In the construction of the statute the intention of the legislature is to be

pursued, if possible. (Section 10520, R. C. M. 1921).

Section 3348, R. C. M. 1921, exempted from the payment of a license fee the following: "The provisions of this section shall not apply to any person who shall kill beef in good faith for his own use."

Chapter 75, Laws of 1923, made no change in the wording of the exemption. In 1927, however, in repealing said Chapter 75, the exemption was worded to read as follows: "This section shall not apply to the sale of meat by any person, firm, corporation or association who may slaughter or cause to be slaughtered any neat cattle of his own raising \* \* \*" (Sec. 2, Chap. 121, Laws of 1927).

In 1929 the legislature again changed the law to read: "Any person who kills beef or veal in good faith for his own use or for the use of himself and three neighbors shall not be required to have such meat inspected or stamped, nor shall he be required to procure any license provided for in this act." (Sec. 3, Chapter 69, Laws of 1929).

In 1931 the statute was amended to read as above set forth. (Chapter 172, Laws of 1931). It will be noted that the word "breeding" was used instead of the word "raising." The use of this word was not inadvertent as it was used twice. It is a general rule of construction that: "Words in common use are to be given their natural, plain, ordinary and commonly understood meaning, in the absence of any statutory or well established technical meaning, unless it is plain from the statute that a different meaning was intended or unless such construction would defeat the manifest intention of the legislature." 59 C. J. p. 974, section 577.

Keeping in mind this rule, the definition of the word "breeding" as above set forth, and having in mind the history of this exemption, it evidently was the purpose of the legislature to permit the breeder or raiser of neat cattle occasionally to slaughter and sell an animal or animals in the natural course of his business as such breeder, without being required to pay a peddler's license. On the other hand, it is evident that the legislature did not intend to permit all peddlers to enter the door of exemption under the pretext that they

were slaughtering and selling their own animals. The high peddler's license no doubt was intended to reduce to a minimum the evils of general peddling of meat.

If a person acquired the animal or animals slaughtered and sold in good faith in the natural course of business as such breeder or raiser of cattle, and not for peddling purposes, such person should be within the exemption. In other words, the intention and not the time of acquisition should determine.

It is our opinion, therefore, that the word "breeding" as above used should be given a reasonably strict construction in order to give effect to the intention of the legislature. You will realize, of course, that it is difficult to lay down a general rule in advance, to fit all cases but that the facts of each case must be considered and the law applied thereto.