

Opinion No. 192.**Livestock—Tuberculosis, Infected
Cattle—Indemnity to be Paid
for Destruction Of.**

HELD: The actual assessed value of each animal destroyed because of tuberculosis infection should govern the amount of indemnity to be paid.

October 30, 1935.

Dr. W. J. Butler
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The Capitol

You have submitted the question whether, in paying indemnity on cattle destroyed on account of being affected with tuberculosis, the actual assessed valuation of the cattle destroyed should govern where such valuation is below the minimum fixed by the board of county commissioners of the county. Taking a concrete case: Suppose a dairy cow which is destroyed on account of tuberculosis, was assessed at \$20, and the minimum valuation for dairy cows fixed by the county commissioners is \$25, which should be selected as the basis for payment of the indemnity.

Section 3271, subdivision 1, R. C. M. 1921, provides that "animals determined by the state veterinary surgeon, or by a deputy veterinary surgeon, to be affected with an incurable disease, which are killed by order of such officer, * * * shall be paid for on a basis of seventy-five per cent. of its full assessed valuation, as such full assessed valuation is fixed on the completion of the assessment-roll on the second Monday in the month of August next preceding the killing, by the tax-assessment records of the county liable in part for any indemnity to be paid."

It would seem from the foregoing language that it was the intention of the legislature to pay indemnity according to the amount of taxes paid and since the amount of taxes paid is based on the actual assessment for each animal, such assessed valuation should govern. Moreover, there is nothing said in this section about minimum assessed values. If an owner pays taxes on a dairy cow on the basis of a declared assessed value of

say \$50, he should be indemnified on that basis when such animal is destroyed and it would certainly be unjust to indemnify him on the basis of a lower minimum standard value of say \$25. If owners of animals destroyed are indemnified on the assessed value of the animals where such assessed value is higher than the minimum then they should also be indemnified on the actual assessed value where such value is less than the minimum. The same rule would have to apply in both cases.

It is my opinion, therefore, that the actual assessed value of each animal destroyed should govern the amount of the indemnity to be paid as provided by Section 3271, R. C. M. 1921.