

diseases to slaughterers other than those who operate under federal or state meat inspection.

Section 11243, Revised Codes of Montana, 1935, provides:

"It shall be unlawful for any person to sell or offer for sale the carcass or any part of the carcass of an animal having actinomycosis (big jaw), tuberculosis, or any other infectious or contagious disease unless the same shall have been inspected and passed by a representative of the livestock sanitary board or the United State bureau of animal industry."

Section 11243 very obviously applies only to the body of a dead animal and to find authority for the Livestock Sanitary Board to issue a regulation applicable to live diseased animals, we must look to the general powers of the Livestock Sanitary Board.

Section 3267, Revised Codes of Montana, 1935, enumerates the powers of the Livestock Sanitary Board and it provides in part:

"The livestock sanitary board shall have power: . . .

"7. To promulgate and enforce such reasonable rules, regulations and orders, as may to them seem necessary or proper for the supervision, inspection and control of the standards and sanitary conditions of slaughter houses, meat depots, meat and meat food products . . ." (Emphasis mine.)

Section 3268, Revised Codes of Montana, 1935, provides:

"It shall be the duty of the livestock sanitary board to promulgate and enforce rules and regulations for the inspection and tuberculin test of all dairy cattle, or other animals, and for the inspection, test, treatment, or disposition of all livestock affected with, or which may have been exposed to, any infectious, contagious, communicable, or dangerous disease, and for the quarantines provided for in this act."

The legislative assembly by its enactment of Section 11243 above mentioned obviously intended to protect the consuming public from the consumption of meat products derived from animals

Opinion No. 210.

Animals—Livestock Sanitary Board, Regulations of—Livestock.

Held: The Livestock Sanitary Board has authority to promulgate and enforce a regulation prohibiting the sale at a public sale yard of animals found infected with infectious or contagious diseases to slaughterers other than those who operate under federal or state meat inspection.

October 16, 1946.

Dr. W. J. Butler
State Veterinary Surgeon
Livestock Sanitary Board
State Capitol
Helena, Montana

Dear Dr. Butler:

You have asked whether the Livestock Sanitary Board has authority to issue a regulation prohibiting the sale at a public sale yard of animals found infected with infectious or contagious

afflicted with infectious or contagious disease. By the provisions of Section 3268, it is equally obvious the legislative assembly intended to grant authority to the Livestock Sanitary Board to promulgate and enforce rules and regulations designed for the protection of the public from the effects, whatever they might be, of livestock affected with infectious, contagious, communicable or dangerous disease. You will note Section 3268 grants to the Livestock Sanitary Board the power to promulgate and enforce rules and regulations for the inspection, test, treatment or disposition of all such livestock. The terms of the statute are broad and all encompassing—obviously so, for the statute is remedial in purpose.

The promulgation of a regulation such as that about which you inquire certainly does no damage to reason or propriety in view of the obvious purpose of the Livestock Sanitary Board statutes of this state. If it is dangerous, as Section 11243 recognizes, for carcasses of animals afflicted with infectious or contagious diseases to be sold or offered for sale without being inspected or passed by a representative of the Livestock Sanitary Board or the Bureau of Animal Industry, it is equally dangerous to the public health and general welfare for live animals so afflicted with infectious, dangerous or contagious disease to be sold at public sale yards to slaughterers who do not operate under federal or state meat inspection standards.

It is therefore my opinion the Livestock Sanitary Board has authority to promulgate and enforce a regulation prohibiting the sale at a public sale yard of animals found infected with infectious, dangerous or contagious diseases to slaughterers other than those who operate under federal or state meat inspection.

Sincerely yours,
R. V. BOTTOMLY,
Attorney General