

# MAINE STATE LEGISLATURE

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November 10, 1919

To Honorable Carl E. Milliken, Governor of Maine  
Re: Salvage - Condemned Cattle.

You have asked this office for an opinion as to whether, through any change in the method of procedure now followed, it is possible to procure from the Federal Government a different attitude toward compensation of Maine shippers of cattle which are killed under the provisions of the Federal Meat Inspection act.

As we understand it, if a farmer is allowed the maximum appraisal value of \$100. for an animal which has been condemned and the salvage is sold for \$75., the State retains the \$75., and the Federal Government, proceeding upon the theory that what the farmer actually receives from the State is the difference between the two sums, limits its contribution to \$25. We understand that you desire, if possible, some procedure under which the State should be considered as paying the full \$100. so that the Federal Government would contribute the full amount.

The provisions of statute under which the State cooperates with the Federal Government appear to have been enacted for the first time in 1915 by Chapter 74 of the Public Laws, which was very brief and read as follows:

"Cattle reacting to the tuberculin test may be sent to establishments maintaining a United States Government Meat Inspection service and be killed under Federal Government inspection and be disposed of according to the requirements of the Government Meat Inspection Act."

This law, of course, provides no machinery in itself, but it was an amendatory act and was attached by amendment to the general law covering the procedure of shipments to the Brighton market; both provisions are now included in Section 9, Chapter 35 of the Revised Statutes (1916), which provides a very clear and definite procedure under which no shipper is to be paid by the State until he has presented a claim to the Live Stock Sanitary Commissioner, which claim is not to be presented until after the salvage has been determined "and the amount of such sale shall be deducted from the appraisal value due the owner of the condemned animal." You will note from this that the State does not pay for the animal in the first instance, but is only liable for the amount remaining after deducting the salvage from the appraisal. We see no way to vary this in any way so as to make the State liable for the full appraisal value. The language is too explicit and definite. Apparently, whatever action the State takes in disposing of the carcass is taken as agent of the owner.

We were informed by the representative of the Federal Government to whom Your Excellency introduced me the other day, that where the salvage exceeds the appraisal value, the State retains the surplus.

Clearly, it is not equitably entitled to it and we can see no authority of law for it. If, for example, the carcass should bring \$125., and the State should collect the money for it, it would be our opinion that it would hold it for the benefit of the owner, who, of course, in such a case would have no claim upon the State because he has received from the salvage more than he is entitled to under the law. . .

Fred F. Lawrence  
Deputy Attorney General