COMMUNITY SALES: State Veterinarian given power to approve veterinarians examining livestock at sales.

September 12, 1945

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Dr. H. E. Curry, State Veterinarian
Department of Agriculture
State Office Building
Jefferson City, Missouri

Dear Dr. Curry:

This will acknowledge receipt of your letter of September 7, 1945, requesting an opinion construing Section 10 of Committee Substitute for Senate Bill No. 11, enacted by the 62nd General Assembly, Laws of 1943, p. 310, with regard to what persons may conduct the examination of livestock authorized by the section.

The section of the law referred to is as follows:

> "The State Veterinarian shall promulgate and enforce rules and regulations for the purpose of maintaining a good state of sanitation on the premises, including livestock yards, pens or vehicles used by or for the licensee in which animals are quartered, fed or transported. The State Veterinarian shall require all licensees defined in this act to obtain such inspection of all livestock offered for sale at any community sale in such manner as he may designate. The State Veterinarian, or his deputy, may in his discretion order any stock vaccinated or quarantined or both when he thinks such action advisable; provided, that the authority to require vaccination given herein shall not be construed to give the State Veterinarian power to issue a general order for the vaccination of all livestock sold in this state or sold at all community sales in

> this state. Such inspections shall be made by a licensed veterinarian or deputy approved by the State Veterinarian, and in accordance with rules and regulations that may be made by the State Veterinarian not contrary to the provisions of this act. Said veterinary inspector shall be subject to dismissal by the State Veterinarian for neglect of duty in the enforcement of the provisions of this act or for misconduct while on official duty."

In order to determine the meaning of a statute there are certain rules of statutory construction that must be borne in mind. The first of these rules is that where the language is plain and unambiguous there is nothing to be construed and it must be given effect as written, St. Louis Amusement Co., v. St. Louis County, 147 S. W. (2d) 667, 347 Mo. 456. Another rule pertinent to your question is found in Section 655, R. S. Mo. 1939, which is the following, "First, words and phrases shall be taken in their plain and ordinary and usual sense, but technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import;"

In Section 10 of CS.S.B 11, quoted herein, the State Veterinarian is given power to promulgate rules and regulations for the purpose of maintaining sanitation in connection with community sales. The term "State Veterinarian" is defined in Section 2 of the Act if any doubt should arise as to the meaning of the words. Next, the State Veterinarian is given power to require licenses to obtain such inspection as he designates of all livestock offered for sale at community sales. This provision is plain and unambiguous. The next provision gives to the State Veterinarian or his deputy power to order stock quarantined or vaccinated. The section in the Act containing definitions does not define the word but looking at the statutes relating to the office of State Veterinarian we find the State Veterinarian is authorized by Section 14222, R. S. Mo. 1939, to appoint deputies. No ambiguity appears here.

This brings us to a discussion of the sentence pertaining to who is authorized to make the inspections authorized, and the sentence is here set out (Sec. 10, Laws of 1943, p. 314):

> "Such inspections shall be made by a licensed veterinarian or deputy approved by the State Veterinarian, and in accord-

> ance with rules and regulations that may be made by the State Veterinarian not contrary to the provisions of this act."

The section of the Act defining terms does not define "licensed veterinarian" or "deputy." Section 14234, Art. 12, Chap. 102, R. S. Mo. 1939, prohibits the practice of veterinary surgery and medicine by persons who are not registered veterinarians. Sections 14235 and 14236 of the same article and chapter governed the registration of veterinarians who were engaged in the practice at the effective date of the law, January 1, 1906, and Section 14237 authorizes the holding of examinations for persons who wish to become registered veterinarians. Section 14245 defines "registered veterinarian" and is as follows:

> "Any person shall be regarded as a registered veterinarian who has complied with either sections 14235, 14236 or 14237 of this article and has been recorded as such, and furnished with a certificate of registration under the seal of the veterinary examining board, and whose license to practice has not been revoked."

The term "licensed veterinarian" is not found in the law relating to the practice of veterinary medicine and surgery nor is it defined in C.S.S.B. 11, 62nd General Assembly. Webster's New International Dictionary, Second Edition, defines "licensed" as "permitted or authorized by license." By Section 14245 a certificate of registration is required to be issued to all persons registered authorizing them to practice veterinary medicine and surgery. The registration would no doubt be held equivalent to licensing. So licensed veterinarian must mean registered veterinarian.

So far, no ambiguity is found. A statute is ambiguous when the language used therein is susceptible of two meanings.

The primary rule of statutory construction is to ascertain the lawmakers' intent from the words used, if possible, and to put on the language of the Legislature, honestly and faithfully, its plain and rational meaning and to promote the object and manifest purpose of the statute, Artophone Corp. v. Coale, 345 Mo. 344, 133 S. W. (2d) 343. Another important rule from the case of Nordberg v. Montgomery, 351 Mo. 180, 173 S. W.

(2d) 387, is that every sentence, phrase or word in the statute must be given some meaning if possible.

It has been shown that the words "licensed veterinarian" mean registered veterinarian. The ambiguity, if any exists, arises from the remaining words of the clause now under consideration. These words of the clause are, "* * * * or deputy approved by the State Veterinarian." "State Veterinarian" is defined in the Act, so the only words remaining which might be susceptible to two interpretations are "deputy approved." These two words taken alone could be interpreted to mean that a deputy who had been approved by the State Veterinarian could do the work of inspecting livestock in place of a registered veterinarian. Under this interpretation the question immediately arises as to what is a deputy. There is no such thing as a deputy registered veterinarian authorized by law. In another sentence of the section powers are conferred upon a deputy of the State Veterinarian. So that the word as here used, must have been intended to mean a deputy State Veterinarian. So either a registered veterinarian or a deputy State Veterinarian, who must be a registered veterinarian before he may be appointed a deputy, is authorized to inspect livestock which is to be sold at community sales.

This brings us to a discussion of the word "approved" as used in the sentence. Does it apply both to the "licensed veterinarian" and the "deputy State Veterinarian," or does it only apply to the "deputy State Veterinarian." To say that the word only applies to the "deputy State Veterinarian" would seem a rather absurd and unreasonable interpretation for before the State Veterinarian deputizes a veterinarian, he approves him or he would not deputize him. And the word "approved" would be useless and unnecessary. A statute should not be so construed as to give it an unreasonable meaning, where it can be given a reasonable meaning. State ex rel. St. Louis Public Service Com. v. Public Service Commission, 326 Mo. 1169. Would it not be unreasonable to say that any registered veterinarian may inspect, but that before a deputy State Veterinarian may do so he must be specifically approved by the State Veterinarian for this type of work.

This interpretation is not a particularly satisfactory one, but it is our duty to try to arrive at the intention of the lawmakers from the language used. However, if this was not the intention of the lawmakers, then all of the words after the words "licensed veterinary" are meaningless and surplusage and

the interpretation would be that any registered veterinarian could make the inspections. Such an interpretation would not be giving a meaning to every word in the sentence.

Briefly summarized this interpretation would mean, that it was the intention of the Legislature to give to the State Veterinarian discretion in designating the registered veterinarians, including Deputy State Veterinarians, to make these livestock inspections.

However unsatisfactory as this interpretation is, it seems to be borne out by Section 11 of the Act, which section is as follows (Laws 1943, p. 314):

> "For the purpose of assisting in the defraying of expense of inspection service, any licensee is hereby authorized and granted the option of collecting from the consignor not to exceed an amount sufficient to cover the expense of such inspection of all livestock sold, exchanged or traded for on any such sale day. The licensee is authorized to contract with a licensed veterinarian, <u>approved and authorized by the State Veterinarian</u>, as to the inspection charge for services rendered by said veterinarian at each community sale."

No doubt could exist that this section makes approval of the State Veterinarian a prerequisite before employment. And in construing a statute the several parts are to be construed in connection with every other part, and all are to be considered as parts of a connected whole, and harmonized if possible, Nordberg v. Montgomery, 173 S. W. (2d) 387, 351 Mo. 180.

Throughtout the entire Act broad powers are given to the State Veterinarian; and giving to him the power to approve or disapprove, at his discretion, registered veterinarians, including his own deputies, for this inspection work, is not inconsistent with the broad powers granted.

Conclusion

The conclusion is therefore stated that by the provisions of Section 10, C.S.S.B. 11, Laws of Missouri, 1943, p. 310

the State Veterinarian is given the right to exercise his discretion in approving registered veterinarians for making the livestock inspections required by said section.

Respectfully submitted,

W. O. JACKSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

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