

AGRICULTURE:  
STATE VETERINARIAN:

The State of Missouri has sufficient enabling acts to justify the Federal Department in cooperating with the state in the eradication of diseases of livestock.

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November 3, 1939

11-4



Dr. H. E. Curry  
State Veterinarian  
Jefferson City, Missouri

Dear Sir:

This is in reply to yours of recent date requesting an opinion from this department on the following question:

"Does the State of Missouri have sufficient laws to authorize it to set up a cooperative program between the Federal Government and the State of Missouri for the eradication of scabies in sheep?"

In the letter from the United States Department of Agriculture which accompanied your request it seems that that department might question the authority of the Missouri Department of Agriculture and the State Veterinarian in enforcing quarantine and other regulatory measures that may be necessary in order to carry out the program for the eradication of scabies in sheep.

The United States Department of Agriculture, in performing its duties pertaining to the eradication of diseases of livestock, operates under the Act of Congress of May 29th, 1884, which is found in the United States Statutes at Large, Volume 23, page 32, Section 3. Section 3 provides as follows:

"Sec. 3. That it shall be the duty of the Commissioner of Agriculture to prepare such rules and regulations as he may deem necessary for the speedy and effectual suppression and extirpation of said diseases, and to certify such

rules and regulations to the executive authority of each State and Territory, and invite said authorities to co-operate in the execution and enforcement of this act. Whenever the plans and methods of the Commissioner of Agriculture shall be accepted by any State or Territory in which pleuro-pneumonia or other contagious, infectious, or communicable disease is declared to exist, or such State or Territory shall have adopted plans and methods for the suppression and extirpation of said diseases, and such plans and methods shall be accepted by the Commissioner of Agriculture, and whenever the governor of a State or other properly constituted authorities signify their readiness to cooperate for the extinction of any contagious, infectious, or communicable disease in conformity with the provisions of this act, the Commissioner of Agriculture is hereby authorized to expend so much of the money appropriated by this act as may be necessary in such investigations, and in such disinfection and quarantine measures as may be necessary to prevent the spread of the disease from one State or Territory into another."

By this section of the Federal Act it seems that if the plans and methods of the Commissioner of Agriculture of the United States are accepted by a state or territory in which communicable diseases of animals exists, or if a state adopts plans or methods for suppression of such diseases and such plans are accepted by the Federal Department, or when the governor of a state or other proper authorities signify their readiness to cooperate with the Federal Department in extinguishing these diseases, then the Federal Department is authorized to furnish aid in such acts.

Looking to the Laws of Missouri on this subject to determine whether or not we have such legislation as would authorize the Federal Department to cooperate with the Missouri authorities in the suppression and eradication of contagious diseases of animals, we find that by Section 12353, page 168, Laws of Missouri, 1933, it is provided:

"\* \* \* The Commissioner is hereby clothed with the power of reasonable quarantine in relation to the regulatory laws of the State Department of Agriculture, and it is further provided that the power of quarantine in relation to livestock diseases shall include poultry. \* \*"

Section 12535, page 235, Laws of Missouri 1939, provides as follows:

"The Governor of Missouri may, in his discretion, order said State Veterinarian to visit any State or territory and investigate any dangerous or infectious disease, including Bang's disease, said to exist in any designated locality in the State named and report to the Governor the result of said investigation, together with such suggestions that he may deem proper and right. On receipt of such report, or any official report of the State Veterinarian, the Governor may call the Commissioner of Agriculture and the State Veterinary Surgeon together, and said Commissioner and said Veterinary Surgeon may, if deemed wise, arrange and adjust such rules and regulations as safety may demand for the transportation of Livestock through or into this State from any State or territory, or any foreign country or parts thereof, where dangerous, contagious or infectious diseases, including Bang's disease may exist.

Such rules and regulations shall not be in contradiction with constitutional laws of transportation and commerce, and shall be subject to the approval of the Governor. The Governor, on the approval of such rules and regulations, shall issue his proclamation, scheduling and quarantining against such localities in which domestic animals may be considered as capable of conveying infectious, contagious or communicable diseases, including Bang's disease and prohibit the importation and the unloading in this State of any livestock of the kind capable of causing such disease, except under the aforesaid rules and regulations. Such rules and regulations, after approval by the Governor, shall be sent to all corporations or other agencies doing the business of transportation or conveying livestock through or into the State of Missouri; and any corporation or agency or individuals who shall violate such rules and regulations by transporting prohibited animals shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than a thousand dollars nor more than ten thousand dollars for each and every offense, and shall be liable for any and all damages or loss that may be sustained by any party or parties by reason of such importation or transportation; Provided, that in no case shall such corporations or agencies (agencies) or individual be liable for any damages resulting from the shipping of stock into this State which has been inspected by the proper authorities and a certificate of health as to same having been given by said

authorities. Such penalty shall be recovered in any county in this state into or through which such stock is brought upon information filed in the Circuit Court of any such County."

And Section 12536 at page 236, Laws of Missouri 1939, provides as follows:

"The Governor, when informed by the State Veterinarian that either contagious pleuro-pneumonia, rinderpest, foot and mouth disease, maladie du coit, Bang's disease, or any other contagious or infectious livestock disease has become largely disseminated or epidemic among domestic animals throughout any municipality or geographical district in this state, or is found to exist in any herd or herds in this state, may call the Commissioner of Agriculture and the State Veterinarian together, and said Commissioner and said veterinarian shall, if deemed necessary to eradicate, or prevent the spread of such disease formulate for the State Veterinarian and the County Courts rules and regulations under which stock capable of carrying said diseases, or any of them shall be permitted to move to other parts of the State; such rules and regulations shall be subject to the approval of the Governor, who thereupon shall issue his proclamation scheduling and quarantining such localities, and forbidding the carrying or transportation or moving of all domestic animals of the kind diseased from such municipalities or district or County to another, or from one premises to another, or over any public highway or any lot or ground not sufficiently fenced to prevent animals from going through or from being brought into such infected districts,

municipalities or counties except in accordance with the aforesaid rules and regulations. The County Court or other legally substituted Court of the County in which such infected locality or district shall have been quarantined by the Governor, shall be notified by the State Veterinarian, and furnished with copies of said regulations. Said County Court shall thereupon comply with said rules and regulations, and issue order to the sheriff to assist said State Veterinarian in carrying out the provisions of the same."

Also, Section 12534, R. S. Missouri 1929, is another act which pertains to the suppression and eradication of communicable diseases among livestock, and it provides as follows:

"Whenever the state veterinary surgeon shall have sufficient evidence to satisfy him that any private or public or corporate barn, or shed, or stock car, or any pen, yard or field, is infected and so injudiciously used as to be liable to convey contagious or infectious disease to live stock, he shall prescribe in writing, to the owner or owners or person or persons in charge thereof, the most rapid of the effective modes of disinfecting and cleansing deemed necessary, and shall prohibit, also in writing, to the owner or owners or persons in charge, the occupation by susceptible live stock or the removal of such infected property as may be movable, until such disinfection has been thoroughly carried out, and that the danger of conveying contagious or infectious disease is removed.

Such cleansing and disinfection shall be at the cost of the owner or owners. The state veterinary surgeon may call for help on the county court or legally substituted court, if necessary, and the courts shall thereupon order the sheriff or other officer to give the assistance necessary to enforce the law."

We think that by the foregoing sections the Missouri lawmakers have set up and adopted plans and methods for the suppression and extinction of contagious, infectious and communicable diseases among livestock in the State of Missouri with the view of complying with the requirements of said Section 3 of the federal acts cited above.

While Section 12534, supra, only authorizes the State Veterinarian to exercise jurisdiction over premises and property which he may find to be infected with a disease contagious to livestock, yet we think that this is an act to enable and assist the federal authorities to carry out the provisions of said act of Congress.

CONCLUSION.

From the foregoing it is the opinion of this department that if and when the Commissioner of Agriculture, the Governor of the State of Missouri and the State Veterinarian have done those things required by them of the sections of the Missouri laws cited above, then the State of Missouri has sufficiently complied with the requirements of Section 3 of the Act of Congress dated May 29th, 1884, pertaining to the Bureau of Animal Industry and is qualified to ask for the federal aid provided for in said Section 3.

Respectfully submitted

TYRE W. BURTON  
Assistant Attorney General

APPROVED:

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W. J. BURKE  
(Acting) Attorney General