

BANKS:

"Baled burlap" and "baled cotton" are "agricultural products or the manufactured or processed derivatives of agricultural products" as such language is used in subparagraph (1) (c) of Section 362.170, RSMo 1949.

AGRICULTURE:

1-23-53

January 21, 1953



Honorable R. B. Mackey
Acting Commissioner of the
Division of Finance
Department of Business and Administration
State Office Building
Jefferson City, Missouri

Dear Mr. Mackey:

The following opinion is rendered in reply to your recent inquiry reading as follows:

"This Division has been asked by a bank located in a city having a population of over 100,000 to advise whether baled burlap and baled cotton could qualify as agricultural derivatives as mentioned in Section 362.170 (1) (c) of the Missouri Revised Statutes, 1949.

"The burlap originally grown is jute and comes into this country from India. It is described as 'semi-processed' by the Customs Office. The cotton is called 'grey' goods, is termed by the railroad as 'cotton bagging' and takes a lower freight rate than regular piece goods. The cotton also is 'semi-processed.'"

Section 362.170, RSMo 1949, applicable to state chartered banks, sets forth restrictions on loans, restrictions on the purchase of securities, and restrictions touching the total liability to a bank of any one person. A reading of the statute just referred to discloses that the reference made therein to cities of certain population have no bearing on the direct question posed in the

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opinion request relative to "baled burlap" and "baled cotton" being agricultural products or the manufactured or processed derivatives of agricultural products. So much of Section 362.170, RSMo 1949, as is necessary to a determination of the inquiry at hand is quoted as follows from subparagraph (1) (c) of said section:

"The total liabilities to such bank of any individual, partnership or corporation may equal but not exceed thirty-five per cent of the capital stock actually paid in and surplus fund of such banks; provided, that all of such total liabilities in excess of the legal loan limit of such bank as defined in paragraph (b) of this subdivision is upon paper based upon the collateral security of warehouse receipts covering agricultural products or the manufactured or processed derivatives of agricultural products in public elevators and public warehouses subject to state supervision and regulation in this state or in any other state of the United States, under the following conditions: * * *"

The terms "agricultural products" and "manufactured or processed derivatives of agricultural products" are not defined in Section 362.170, RSMo 1949. However, at Section 265.010 (1) of Chapter 265, RSMo 1949, dealing with "standardization, inspection and marketing of agricultural products," we find agricultural products defined as follows:

"'Agricultural products' shall include horticultural, viticultural, dairy, bee, and any farm product."

In the case of *Mixon v. Green*, 193 So. 8, 187 Miss. 343, l.c. 349, the Supreme Court of Mississippi spoke as follows concerning cotton being an agricultural product:

"It is a matter of common knowledge, of which the Court will take judicial notice, that generally 'agricultural products' in this State are understood to mean cotton, corn, potatoes, peas, hay and other usual crops planted and harvested during the calendar year."

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Black's Law Dictionary, Deluxe Edition, 1944, p. 85, has the following reference to "agricultural product":

"That which is the direct result of husbandry and the cultivation of the soil. The product in its natural unmanufactured condition. Getty Milling Co. 40 Kan. 281, 19 Pac. 617. It has been held not to include beef cattle; Davis & Co. v. City of Macon, 64 Ga. 128, 37 Am. Rep. 60; but to include forestry products; Northern Cedar Co. v. French, 131 Wash. 394, 230 P. 837, 846."

Webster's New International Dictionary, Second Edition (Unabridged), defines agriculture as follows:

"The art or science of cultivating the ground, and raising and harvesting crops, often including also feeding, breeding, and management of livestock, tillage; husbandry; farming; in a broader sense, the science and art of the production of plants and animals useful to man, including to a variable extent the preparation of these products for man's use and their disposal by marketing or otherwise. In this broad use it includes farming, horticulture, forestry, dairying, sugar making, etc."

Webster's New International Dictionary, Second Edition (Unabridged), defines "burlap" and "jute" as follows:

"Burlap: A coarse, heavy, plain-woven fabric, of jute or hemp, sometimes flax, used for bagging; also, a finer kind of similar material, for curtains, etc."

"Jute: (a) The glossy fiber of either or two East Indian tiliaceous plants (*Corchorus olitorius* and *C. capsularis*). Though tenacious, it is injured by moisture, and hence is used chiefly for sacking, burlap, and the cheaper varieties of twine; it is also made into wrapping paper, and is sometimes mixed with wool or silk in fabrics. (b) The plant producing this fiber."

From the foregoing definitions and the cited decision of the Supreme Court of Mississippi, it may reasonably be concluded that "baled burlap" and "baled cotton" referred

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to in the request for this opinion are "agricultural products or the manufactured or processed derivatives of agricultural products" as such language is used in subparagraph (1) (c) of Section 362.170, RSMo 1949.

CONCLUSION

It is the opinion of this office that ["baled cotton" and "baled burlap" are "agricultural products or the manufactured or processed derivatives of agricultural products" as such language is used in subparagraph (1) (c) of Section 362.170, RSMo 1949.]

This opinion, which I hereby approve, was prepared by my Assistant, Mr. Julian L. O'Malley.

Respectfully submitted,

JOHN M. DALTON
Attorney General

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